



ACT No. XXI of 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 21st May 1860.)

An Act for the Registration of Literary, Scientific, and Charitable Societies.

WHEREAS it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of Literature, Science, or the Fine Arts, or for the diffusion of useful knowledge, or for Charitable purposes; It is enacted as follows:—

Preamble.

I. Any seven or more persons associated for any Literary, Scientific, or Charitable purpose, or for any such purpose as is described in Section XX of this Act, may, by subscribing their names to a Memorandum of Association, and filing the same with the Registrar of Joint-Stock Companies under Act XIX of 1857, form themselves into a Society under this Act.

Societies formed by
Memorandum of Association and Registration.

II. The Memorandum of Association shall contain the following things, (that is to say)—

The name of the Society.
The objects of the Society.

The names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted. A copy of the Rules and Regulations of the Society, certified to be a correct copy by not less than three of the Members of the governing body, shall be filed with the Memorandum of Association.

III. Upon such Memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty Rupees, or such smaller fee as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Registration.
Fees.

IV. Once in every year, on or before the 14th day succeeding the day on which, according to the Rules of the Society, the Annual General Meeting of the Society is held, or if the Rules do not provide for an Annual General Meeting, in the month of January, a list shall be filed with the Registrar of Joint-Stock Companies, of the names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body then entrusted with the management of the affairs of the Society.

Annual list of managing body to be filed.

V. The property, moveable and immoveable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society and in all proceedings, Civil and Criminal, may be described as the property of the governing body of such Society by their proper title.

Property of Society how to be vested.

VI. Every Society registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary, or Trustees, as shall be determined by the Rules and Regulations of the Society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; provided that it shall be competent for any person having a claim or demand against the Society, to sue the President or Chairman, or Principal Secretary or the Trustees thereof, if on application to the governing body some other Officer or person be not nominated to be the defendant.

How suits by and against Societies to be brought.

VII. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought, or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

VIII. If a judgment shall be recovered against the person or Officer named on behalf of the Society, such judgment shall not be put in force against the property, moveable or immovable, or against the body of such person or Officer, but against the property of the Society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

IX. Whenever by any Bye-law duly made in accordance with the Rules and Regulations of the Society, or, if the Rules do not provide for the making of Bye-laws, by any Bye-law made at a General Meeting of the Members of the Society convened for the purpose, (for the making of which the concurrent votes of three-fifths of the Members present at such Meeting shall be necessary), any pecuniary penalty is imposed for the breach of any Rule or Bye-law of the Society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the Society shall be situate, as the governing body thereof shall deem expedient.

X. Any Member who may be in arrear of a subscription which according to the Rules of the Society he is bound to pay, or who shall possess himself of or detain any property of the Society in a manner or for a time contrary to such Rules, or shall injure or destroy any property of the Society may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the Society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the Officer in whose name the suit shall be brought, or from the Society, and in the latter case shall have process against the property of the said Society in the manner above described.

XI. Any Member of the Society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the Society may be exposed to loss, shall be subject to the same prosecution, and if convicted shall be liable to be punished in like manner, as any person not a Member would be subject and liable to in respect of the like offence.

XII. Whenever it shall appear to the governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society, such governing body may submit the proposition to the Members of the Society in a written or printed report, and may convene a Special Meeting for the consideration thereof according to the Regulations of the Society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every Member of the Society ten days previous to the Special Meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the Members delivered in person or by proxy, and confirmed by the votes of three-fifths of the Members present at a second Special Meeting convened by the governing body at an interval of one month after the former Meeting.

XIII. Any number not less than three-fifths of the Members of any Society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the Society, its claims, and liabilities, according to the Rules of the said Society applicable thereto if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the Members of the Society, the adjustment of its affairs shall be referred to the principal Court of original Civil jurisdiction of the District in which the chief building of the Society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided that no Society shall be dissolved unless three-fifths of the Members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general Meeting convened for the purpose. Provided that whenever the Government is a Member of, or a contributor to, or otherwise interested in any Society registered under this Act, such Society shall not be dissolved without the consent of Government.

XIV. If upon the dissolution of any Society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the said Society or any of them but shall be given to some other Society, to be determined by the votes of not less than three-fifths of the Members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; provided however that this Clause shall not apply to any Society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-Stock Company.

XV. For the purposes of this Act a Member of a Society shall be a person who having been admitted therein according to the Rules and Regulations thereof, shall have paid a subscription, or shall signed the roll or list of Members thereof, and shall not have resigned in accordance with such Rules and Regulations; but in all proceedings under this Act no person shall be entitled to vote or be counted as a Member whose subscription at the time shall have been in arrear for a period exceeding three months.

The governing body defined. XVI. The governing body of the Society shall be the Governors, Council, Directors, Committee, Trustees, or other body to whom by the Rules and Regulations of the Society the management of its affairs is entrusted.

XVII. Any Company or Society established for a Literary, Scientific, or Charitable purpose and registered under Act XLIII of 1850, or any such Society established and constituted previously to the passing of this Act but not registered under the said Act XLIII of 1850, may at any time hereafter be registered as a Society under this Act; subject to the proviso that no such Company or Society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the Members present personally, or by proxy, at some General Meeting convened for that purpose by the governing body. In the case of a Company or Society registered under Act XLIII of 1850, the Directors shall be deemed to be such governing body. In the case of a Society not so registered, if no such body shall have been constituted on the establishment of the Society, it shall be competent for the Members thereof, upon due notice, to create for itself a governing body to act for the Society thenceforth.

XVIII. In order to any such Society as is mentioned in the last preceding Section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-Stock Companies under Act XIX of 1857, a Memorandum showing the name of the Society, the objects of the Society, and the names, addresses, and occupations of the governing body, together with a copy of the Rules and Regulations of the Society certified as provided in Section II, and a copy of the report of the Proceedings of the General Meeting at which the registration was resolved on.

XIX. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one Rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

XX. The following Societies may be registered under this Act, Charitable Societies, the Military Orphan Funds or Societies established at the several Presidencies of India, Societies established for the promotion of Science, Literature, or the fine Arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of Libraries or Reading-rooms for general use among the Members or open to the public, or public Museums and Galleries of Paintings and other works of Art, Collections of Natural History, Mechanical and Philosophical Inventions, Instruments, or Designs.

M. WYLIE,
Clerk of the Council.



ACT No. XXXI OF 1861.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

Received the assent of the Governor General on the 7th September 1861.

An Act to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof.

Preamble.

WHEREAS it is expedient to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof; It is enacted as follows:—

I. From the time when this Act shall come into operation it shall not be lawful for any person in the North-Western Provinces of the Presidency of Bengal, or in any other part of the British Territories in India to which this Act shall be extended in the manner hereinafter provided, to manufacture or refine Saltpetre, or to separate or purify any Salt which may be educed in the process of manufacturing or refining Saltpetre, except under a license from the Local Government. The license may be granted either for the manufacture of Saltpetre alone, or for the manufacture and refining of Saltpetre and the separation and purification of Salt educed in the process of such manufacture and refining.

Unlicensed manufacturer prohibited from separating, &c., Salt educed in the manufacture of Saltpetre.

II. It shall not be lawful for any manufacturer of Saltpetre, not being licensed to manufacture and refine Saltpetre and to separate and purify the Salt educed in the process of the manufacture of Saltpetre, to separate any Salt from any earth or other substance yielding Salt.

III. Every license granted under this Act shall have effect for one year from the date of such license and shall contain the name of the proprietor of the manufactory or manufactory and refinery of Saltpetre licensed, and of the locality of such manufactory or refinery.

IV. For every license to manufacture Saltpetre there shall be charged a fee not exceeding two Rupees, and for every license to manufacture and refine Saltpetre and to separate and purify Salt in the process of such manufacture and refining, a fee not exceeding one hundred Rupees. The local Government shall within the limits aforesaid fix the amount of the fee to be paid for such licenses respectively.

Fees of licenses.

V. The Salt educed in the process of manufacturing or refining Saltpetre by any person licensed to separate and purify Salt as aforesaid (whether the same shall be purified or not) shall be liable to the full Government Duty on Salt in the Presidency or place in which such Salt is separated, educed, or purified, and such duty shall be levied, on or before such Salt is removed from the place of manufacture.

Salt educed in the manufacture of Saltpetre liable to full Government duty.

VI. If any person shall manufacture or refine Saltpetre or separate or purify any Salt educed in the process of manufacturing or refining the same, without a license under this Act, or being licensed only to manufacture Saltpetre, shall separate any Salt in the manufacture thereof, or being licensed to manufacture and refine Saltpetre shall (except as provided in the next Section) allow any Salt separated in the manufacture or refinement of Saltpetre to be removed from the place of manufacture or refinery without the full amount of Government Duty thereon being first paid, he shall be liable to a fine of five hundred Rupees, and on non-payment thereof to imprisonment with or without hard labor for a period not exceeding six months.

Penalty.

VII. It shall be lawful for the local Government to compound, with any person licensed under this Act to manufacture and refine Saltpetre and to separate and purify Salt educed in the process of such manufacturing and refining, for the duty payable on the Salt estimated to be separated by such person. The composition shall be made for one year only, and may be annually renewed, and shall be in such form, and subject to such provisions and pecuniary penalties, as the local Government shall prescribe. Such provisions and penalties shall be expressed in such license, and the person licensed shall sign a bond embodying such provisions and penalties, and binding him to the fulfilment of all conditions of such license.

Composition of Duties.

VIII. Every manufactory of Saltpetre in the North-Western Provinces licensed under this Act, and a space not exceeding one hundred yards around such manufactory if the manufactory be also a refinery of Saltpetre, and not exceeding fifty yards if the manufactory be licensed for the manufacture of Saltpetre only, to be fixed by the local Government under Section III Act XIV of 1843 (for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal), shall

Manufactories in the North-Western Provinces to be within Customs jurisdiction.

be included in the Customs jurisdiction of the said Provinces; and the provisions of the said Act XIV of 1843 and of Act XXXVI of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces*) shall apply to Salt manufactured, separated, or purified contrary to the provisions of this Act, and to such Customs jurisdiction.

In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors, &c. IX. In other parts of the British Territories in India to which this Act shall be extended in the manner hereinafter provided, the powers conferred by the said Acts XIV of 1843 and XXXVI of 1855 on Collectors and other Officers of Customs and Police Officers respectively, may be exercised by the Magistrates and Police Officers (not being under the grade of a Jemadar or Head Officer of a Police Station) in their respective Districts.

X. It shall be lawful for the local Government of the North-Western Provinces, and of any other Presidency of place to which this Act shall be extended as hereinafter provided, to frame rules, which shall not be contrary to the provisions of this Act, for securing the Duty payable on Salt separated or purified under licenses to manufacture and refine Saltpetre and to separate and purify Salt educed in manufacturing and refining the same, for compositions under Section VII of this Act, and for the removal of Salt for which composition has been made, and otherwise to give effect to this Act. Such rules shall be published in the Official Gazette of such local Government, and shall have the same force and effect as if they were contained in this Act.

XI. The provisions of this Act, wherever it may be in force, shall apply to the manufacture of Russee, Sujjee, and all other substances manufactured from saline earth, and of Kharee Noon, or Glauber's Salt, and every other form of Sulphate of Soda, and to the works at which any such substance is manufactured.

XII. All forfeitures or penalties imposed under the authority of this Act shall be recoverable by any Magistrate of Police, or by the Magistrate or other Officer exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above named Officers.

XIII. When any penalty is awarded for the breach of the conditions of any license under this Act, or against the holder of any license for any offence under this Act, the local Government may cancel such license. The Officer who convicts the offender may also, on the application of the Commissioner of Customs or of the Collector of Customs within whose jurisdiction the offence is committed or other Officer authorized in that behalf by the local Government, order the works of such offender at which such offence was committed, to be destroyed.

XIV. In case any penalty awarded under this Act shall not be forthwith paid, the Officer by whom such penalty is awarded may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

XV. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

XVI. If the offender shall be a European British subject, the Magistrate shall record the facts, and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

XVII. Nothing in this Act shall be construed to alter or affect the provisions of any other law or Regulation relating to licenses.

XVIII. This Act shall take effect in the North-Western Provinces on the 1st day of December 1861, and may be extended to any other parts of the British territories in India, by an order of the Governor-General of India in Council to be published in the Official Gazette.

M. WYLIE, *Clerk of the Council.*

TITLES

OF

ACTS PASSED BY THE GOVERNOR OF FORT SAINT GEORGE IN COUNCIL

IN THE YEARS 1862-63.

TITLES OF ACTS PASSED IN 1862.

Act No. I.—An Act for the levy of Port dues in the Port of Ganjam.

„ „ II.—An Act to extend the provisions of Act XXV of 1859, entitled an Act to prevent the over-crowding of Vessels carrying Native passengers in the Bay of Bengal.

„ „ III.—An Act for enabling the Commissioner of Police at Madras to make Bye-Laws for more effectually carrying out in the Town of Madras the objects of Acts XIII of 1856 and XLVIII of 1860, and for the better and more effectual preservation of order therein.

„ „ IV.—An Act to exempt enfranchised Inams from the operation of Regulation IV of 1831, and Acts XXXI of 1836 and XXIII of 1838.

„ „ V.—An Act for regulating the Bank of Madras.

TITLES OF ACTS PASSED IN 1863.

Act No. I.—An Act to enable Subordinate Magistrates of the Second Class to take cognizance of offences under Section 174 of the Indian Penal Code.

„ „ II.—An Act to extend certain provisions of Act XXII of 1855.

„ „ III.—An Act to make better provision for the Service of Process under Act XIII of 1859.

„ „ IV.—An Act for investing certain Courts in the Presidency of Fort Saint George, either wholly or in part, with the jurisdiction exercised by Courts of Small Causes established under Act XLII of 1860.

„ „ V.—An Act to prevent damage to the Madras Pier; to regulate the traffic; and to provide for the levying of tolls upon the same.

„ „ VI.—An Act to provide for the maintenance of certain ~~S~~1863 in the Delta Taluqs of the Godavery District, under the Presidency of Fort Saint George, and to enable the inhabitants of any town, village, or place, in any District under the said Presidency, to assess themselves for the establishment and maintenance of Schools.

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ACT No. IX of 1863.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1863.)

An Act to amend the Code of Civil Procedure.

WHEREAS the Code of Civil Procedure requires that Appeals from Decisions or Orders to the Sudder Court shall ordinarily be heard and determined by two or more Judges of the said Court; and whereas in the Territories, not subject to the General Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII of 1859, to be included in the expression "Sudder Court" in any part of the said Territories to which the said Code may be extended, generally, consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing Appeals from Decisions and Orders, or in Proceedings, relating to any other matter which may be brought before him; It is enacted as follows :—

I. When in any part of the British Territories in India to which the Code of Civil Procedure has been or shall be extended, under the provisions of Section 385 of the said Code, the Highest Civil Court of Appeal consists of a single Judge such Judge, shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

II. No Order passed by, or Proceeding held before, the single Judge of any such Highest Civil Court of Appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British Territories in India, shall be deemed invalid or be liable to be questioned on the ground that such Order or Proceeding was passed by or held before a single Judge.

TITLES
OF
ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.
IN THE YEAR 1864.

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—	II.	to provide for the administration of Civil and Criminal Justice at Aden.
—	III.	to give the Government certain powers with respect to Foreigners.
—	IV.	to give validity to certain proceedings of the Court of Small Causes of Kurrachee.
—	V.	to give validity to the extension of the Code of Civil Procedure to the Province of Scinde from the first day of January 1862.
—	VI.	to authorize the punishment of whipping in certain cases.
—	VII.	for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces.
—	VIII.	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.
—	IX.	to repeal Act VIII of 1861 (for the levy of Port-dues in the Port of Amherst).
—	X.	to extend Act XXI of 1856 (to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).
—	XI.	to repeal the Laws relating to the Offices of Hindoo and Mahomedan Law Officers, and to the Offices of Cazees-eol-Cozaat and of Cazees; and to abolish the former Offices.
—	XII.	to give further effect to the provisions of Act VI 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).
—	XIII.	to consolidate and amend the Laws relating to the Emigration of Native Laborers.
—	XIV.	to give validity to certain acts and proceedings of the Joint Judge of the Konkan.
—	XV.	to amend Act VIII of 1851 (for enabling Government to levy Tolls on Public Roads and Bridges).
—	XVI.	to provide for the Registration of Assurances.
—	XVII.	to constitute an Office of Official Trustees.
—	XVIII.	to provide for the appointment of a Municipal Committee for the City of Lucknow.
—	XIX.	to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.
—	XX.	for making better provision for the care of the persons and property of Minors in the Presidency of Bombay.
—	XXI.	for the extension of the jurisdiction of the Magistrates of Police in Calcutta.
—	XXII.	to make provision for the administration of Military Cantonments.
—	XXIII.	to amend the law relating to the Customs Duties on goods imported by Sea.
—	XXIV.	relating to the administration of certain Districts under the Government of the Lieutenant-Governor of the North Western Provinces.
—	XXV.	to provide further for the solemnization of Marriages in India of persons professing the Christian Religion.
—	XXVI.	to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.
—	XXVII.	to substitute certain declarations for the oaths of qualification taken by Justices of the Peace.
—	XXVIII.	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.

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TO THE

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

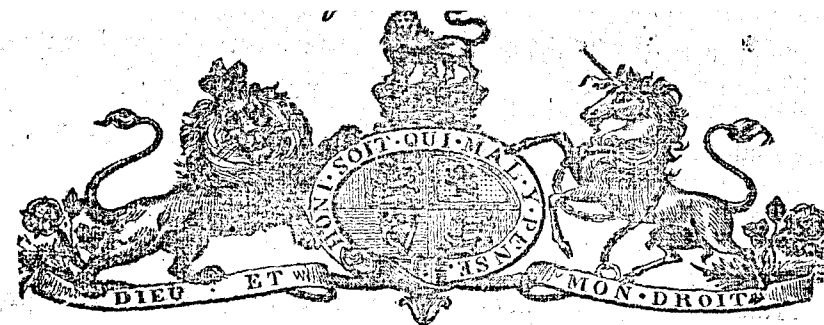
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FRIDAY EVENING, JULY 15, 1864.

GOVERNMENT OF FORT ST. GEORGE.

LEGISLATIVE DEPARTMENT.

THE following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General, on the 20th June 1864, and is hereby promulgated for general information:—

ARREARS OF REVENUE RECOVERY ACT.

ARRANGEMENT OF SECTIONS.

- Section
- I. Interpretation Clause.
Landholder.
 - II. Land, the security for the revenue.
 - III. Landholder when and to whom to pay his Kist.
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 - IV. The whole or a portion of a Kist remaining unpaid, shall be deemed to be an arrear of revenue.
 - V. Arrear of revenue how to be recovered.
 - VI. Terms of Sunnud-i-Milkut Istimrar to be observed.
 - VII. Arrears of revenue to bear interest.
 - VIII. Rules for seizure and sale of moveable property.
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 - IX. Consequence of defaulter neglecting to pay after notice.
 - X. On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.
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 - XII. Distrained cattle or goods not to be used.
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 - XIV. Distress to be proportionate to the arrear.
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- XVI. Penalty for fraudulent conveyance of property to prevent distress.
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- XVIII. Penalty for forcibly or clandestinely taking away distrained property.
- XIX. What places distrainer may force open.
- XX. Powers of distrainer to force open, doors in the presence of a Police Officer.
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- LXIV. Scope of Act.
- LXV. Repeal of certain enactments.
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MADRAS.

ACT No. II of 1864.

An Act to consolidate the Laws for the recovery of Arrears of Revenue in the Madras Presidency.

WHEREAS it is advisable that the laws relating to the collection of the public revenue should be consolidated and simplified; it is hereby enacted as follows:—

Preamble.

Interpretation Clause. Landholder.

I. The term "landholder" as used in this Act shall be taken to comprise the following person:—
All persons holding under a Sunnud-i-Milkut Istimrar, all other Zemindars, Shrotriendars, Jaghiredars, Inamdars, and all persons farming the Land Revenue under Government. All holders of land under Ryotwar Settlements, or in any way subject to the payment of revenue direct to Government. Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to Government on account of water supplied for irrigation.

Land, the security for the Revenue.

II. The land, the buildings upon it, and its products, shall be regarded as the security of the public revenue.

Landholder when and to whom to pay his Kist.

III. Every landholder shall pay to the Collector, or other Officer empowered by him to receive it, the revenue due upon his land on or before the day on which it falls due, according to the Kist-bundy or other engagement, and where no particular day is fixed, then within the time when the payment falls due according to local usage: provided that, except where property is held under a Sunnud-i-Milkut Istimrar or other similar instrument, it shall be lawful for the Board of Revenue by Notification published in the District Gazette to alter and fix from time to time the amount of the several Kists or instalments, and the dates at which they shall respectively become payable.

Board of Revenue may alter amounts and dates of payment.

The whole or a portion of a Kist remaining unpaid shall be deemed to be an arrear of revenue.

IV. When the whole or a portion of a Kist shall not be so paid, the amount of the Kist or of its unpaid portion shall be deemed to be an arrear of revenue.

Arrear of revenue how to be recovered.

V. Whenever revenue may be in arrear, it shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's moveable and immoveable property, or by execution against the person of the defaulter in manner hereinafter provided.

Terms of Sunnud-i-Milkut Istimrar to be observed.

VI. If the defaulter hold under a Sunnud-i-Milkut Istimrar or other similar instrument, the mode of recovering the arrear shall be in accordance with the terms of such Sunnud. In the case of other defaulters, the Collector, or other Officer empowered by the Collector in that behalf, may, at his discretion, proceed to realize the arrear by the sale of either the moveable or immoveable property of the defaulter, or of both.

Arrears of revenue to bear interest.

VII. Arrears of revenue shall bear interest at the rate of six per cent. per annum.

Rules for seizure and sale of moveable property.

VIII. In the seizure and sale of moveable property for

arrears of revenue, the following rules shall be observed:—

First. The Collector, or other Officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter a demand in writing and signed with his name,

Demand in writing.

specifying the name of the defaulter; the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear together with the batta due to him, under Section 52, be not at once paid, shall be his authority for making the distress, and on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where it may be lodged or kept.

Defaulter to be served with a copy.

Second.—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount, with interest, batta, and all the expenses of the distress, be previously discharged.

Writing to state that the distrained property will be sold.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence, or on the premises where the property may have been distrained, before the expiration of the third day, calculating

Mode of service when defaulter is absent.

from the day of the distress.

IX. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into, to the satisfaction of the Collector or other Officer empowered by the Collector in that behalf, the distrainer shall transmit an inventory of the property

Consequence of defaulter neglecting to pay after notice.

distrained to the nearest public Officer empowered to sell distrained property under Act VII of 1839, in order that it may be publicly sold for the discharge of the arrear due, with interest, batta, and cost of distraint.

X. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered,

On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.

and shall forthwith release the property.

XI. The distrainer attaching the crops or ungathered products of the land belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season, and stored in proper

Distrained crops how to be dealt with.

places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the

Tenant may pay arrears and terminate attachment.

property, or from the proceeds of the sale in the event of its being sold. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due by him, then or afterwards.

XII. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained; he shall provide the necessary food for the cattle or live stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrained cattle or goods not to be used.

XIII. Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly worked or made use of, the amount of such loss or damage shall be recoverable by summary process by the Collector from the

Officer responsible on neglect in respect of distrained property.

Officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damnified.

Distress to be proportionate to the arrear.

XIV. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrears.

Time of distress.

XV. Distress shall be made after sunrise and before sunset, and not otherwise.

Penalty for fraudulent conveyance of property to prevent distress.

XVI. Where a defaulter may make a fraudulent conveyance of property to prevent the distress of arrears, any Civil Court of competent jurisdiction upon proof thereof shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by Section 424 of the Indian Penal Code.

XVII. Where any person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may notwithstanding cause the same to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with interest, costs, and damages, according to the circumstances of the case. But claims

Revenue to be the first charge.

to crops upon the ground, or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of revenue due from the ground upon which such crop or product may have been grown.

XVIII. Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed

Penalty for forcibly or clandestinely taking away distrained property.

by the Indian Penal Code.

XIX. It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he 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 attaching property belonging to a defaulter and lodged therein; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the zenana or residence of women, except as hereinafter provided.

What places distrainer may force open.

XX. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the Officer

Powers of distrainer to force open doors in the presence of a Police Officer.

in charge of the nearest Police station. On such representation, the Officer in charge of the said station shall send a Police Officer to the post, in presence of whom the distrainer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who according to the customs of the country cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

XXI. Persons entering the apartments of women, or forcing open the outer door of dwelling houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees 500, or to imprisonment of either description for any period not exceeding six months.

Punishment for unlawful entry.

Proclamation to be made of the time of sale, and of the property to be sold.

XXII. The public Officer empowered under Act VII of 1839 to sell distrained property shall cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, a list of the property to be sold, with a notice specifying the place where and the day and

tion of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector, or other Officer empowered by the Collector in that behalf, may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

XXIII. At the appointed time, the property shall be put up in one or more lots, as the said Officer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

XXIV. The property shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

XXV. Before a Collector, or other Officer empowered by the Collector in that behalf, proceeds to attach the land of a defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized Agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached.

XXVI. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other Officer empowered by the Collector in that behalf, he shall proceed to cover the arrear by the attachment and sale of the defaulter's land in the following manner.

XXVII. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette.

XXVIII. It shall be lawful for the Collector when attaching the land of a defaulter, or at any time during such attachment, to assume the management of the property attached. In such case he shall appoint an Agent with a proper establishment of Officers to manage the property, and shall give the Agent a certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property: provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an Agent, it shall be committed to the care of such Revenue Officer as the Collector may select, who shall be subject to all the provisions herein contained in reference to Agents.

XXIX. Notice of the assumption of management shall forthwith be served on the defaulter in the manner described in Section XXV, and shall be notified by public proclamation on the land, and by publication in the District Gazette.

XXX. It shall be the duty of the Agent, during the continuance of management under Section XXVIII, to collect the rents and profits due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist. The Agent shall keep accounts of all his receipts and disbursements, and submit the same, and pay over the balance to the Collector, or other Officer empowered by the Collector in that behalf, monthly, or whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times, and to take copies of the same at his own expense without fee.

XXXI. It shall be lawful for the defaulter to proceed by prosecution or suit against the Agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants or other persons holding by subordinate title, shall have the same remedies against him as they would have had against the defaulter, if the act were done by the defaulter.

XXXII. All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned, shall be binding upon the Collector, during attachment, but all such engagements made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bona fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to attachment, shall be null and void against the Collector, if he shall so declare; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue.

XXXIII. All payments on account of rent or profits actually due, made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover as arrears of rent the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

XXXIV. All sums received from the property attached, after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of six per cent. per annum, and as soon as all arrears, interest, costs of attachment, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during its continuance.

XXXV. It shall be lawful for any person claiming an interest in land which has been, or is about to be attached, to obtain its release by paying the arrears, interest and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made.

XXXVI. In the sale of immoveable property under this Act, the following rules shall be observed:—
First. The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the District in which the property is situated, or other Officer empowered by the Collector in that behalf. The time may be either previous to or after the expiration of the Fasli year.

Second. Previous to the sale the Collector, or other Officer empowered by the Collector in that behalf, shall issue a notice thereof in *English* and in the language of the District, specifying the name of the defaulter; the position and extent of land and of his buildings

thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current Fasli; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's Office and in the Taluq Cutcherry, in the nearest Police Station-house, and on some conspicuous part of the land.

Third. A sum of money equal to fifteen per cent. of the price of the lands shall be deposited by the purchaser in the hands of the Collector, or other Officer empowered by the Collector in that behalf, at the time of the purchase, and where the remainder of the purchase money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Fourth. Where the purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be re-sold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Fifth. All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as Agents, and in the latter case to deposit a written authority signed by their principals. If such requisition be not complied with their bids may be rejected.

XXXVII. It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate, or in taking the steps necessary for sale, and thereupon the sale shall be stayed: provided always that such tender must be made before sunset on the day previous to that appointed for the sale, and all sums so paid by any tenant, or *bona fide* mortgagee, or other incumbrancer, may be recovered in the manner provided in Section XXXV.

XXXVIII. Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase in all Courts and tribunals where it may be material to establish the same, and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

XXXIX. When lands may be purchased at public sale the Collector, or other Officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated in the Cutcherry of the Taluk, in the head Cutcherry of the District, and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

XL. Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by Section XXXVIII, shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

XLI. All contracts entered into by the defaulter with his tenants, and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in Sections XXXII and XXXIII of this Act.

XLII. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest, and the expenses

ABKARY ACT.

ARRANGEMENT OF SECTIONS.

SECTION.

- I. Repeal of Regulation 1 of 1820 of the Madras Code; and Act XXXII of 1845.
- II. Interpretation Clause.
- III. Manufacture and sale of liquor to be in conformity with this Act.
- IV. Exclusive privilege of manufacture and sale may be retained by Government.
Or may be assigned to individuals.
Or exclusive privilege may be assigned as to some liquors, and license without exclusive right granted as to others. Licenses may be issued on payment of a fee, or of an excise duty.
- V. Board of Revenue to determine forms of licenses.
- VI. Collector to lay down rules as to manufacture and sale.
- VII. Form of License, what to specify.
Manufacture or sale without a license forbidden.
- VIII. Engagement to be entered into by person in charge of still or shop.
- IX. Clause 1. Renters may sub-rent.
" Clause 2. Engagements to be entered into by sub-renters.
- X. Recovery of arrears due to Government.
- XI. Recovery of arrears due to renters.
- XII. Clause 1. Licenses for distillation by European process on payment of a fee or excise duty.
" Clause 2. Provisions to be contained in license.
" Clause 3. Board of Revenue may, but need not, allow spirits to be excised.
- XIII. Licenses for manufacture and sale, what they are to contain.
- XIV. Prohibition against possession of liquor without permit. Such permits to whom to be issued.
- XV. Transit of liquor without permit prohibited.
Who may issue permits.
- XVI. Validity

SECTION.

- XVI. Validity and effect of permit.
- XVII. Penalty on transit of liquor without a permit.
- XVIII. Penalty for breach of license to distil.
- XIX. Penalty for permitting disorderly conduct.
Or for mixing intoxicating ingredients with liquor.
- XX. Penalty for contravention of rules.
- XXI. Penalty for manufacture or sale without a license.
- XXII. Penalty for conveying liquor without a license.
- XXIII. Search Warrants.
- XXIV. Places licensed for manufacture or sale may be inspected by Police
without warrant.
- XXV. License to be shown on demand.
Penalty for refusal.
- XXVI. Police may stop person in possession of liquor.
And seize it if no valid pass.
- XXVII. Exception as to articles of Medical use.
- XXVIII. Home Manufacture permitted.
Board of Revenue may forbid.
- XXIX. Renter not entitled to levy tax.
- XXX. Penalty to be levied by distress.
- XXXI. Imprisonment pending return of distress warrant.
- XXXII. Imprisonment where no sufficient distress.
Duration of imprisonment.
- XXXIII. Act XVIII of 1853, saved.
- XXXIV. Operation of Act.

MADRAS.

MADRAS.

Act No. III of 1864.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

(Received the assent of the Governor on the 2nd July 1864, and of the Governor General on the 28th July 1864.)

An Act for Amending the Abkary Laws of the Madras Presidency beyond the limits of the Madras Abkary, as prescribed by Act XIX of 1852.

WHEREAS it is expedient to amend the laws which provide for the manufacture, sale, transit and possession of liquor beyond the limits prescribed for the Madras Abkary by Act XIX of 1852, it is hereby enacted as follows:—

I. From and after the date on which this Act shall come into operation, Regulation I of 1820, of the Madras Code, and Act XXXII of 1845 shall be repealed, except in so far as they rescind any other Regulations or Acts, and except as to any act or offence which shall have been done, or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act came into operation, and all references which occur in any existing Law, to the aforesaid Regulation, or Act shall be taken as being references to the corresponding provisions of this Act.

II. In the construction of this Act, the following words shall have the several meanings hereby assigned to them.

The term Liquor shall be taken as denoting spirits, wine, beer and all other intoxicating liquors in the manufacture of which distillation or fermentation takes place.

The terms selling and sale shall include bartering or receiving in pawn for liquor, grain, or any other articles.

The term Magistrate shall include all persons exercising all or any of the powers of a Magistrate.

Words

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Singular and Plural.

Words importing the masculine gender shall include the feminine.

Masculine and Feminine.

III. All persons are hereby forbidden to manufacture or to sell or to keep for the purpose of sale any liquor of the description mentioned in Section II of this Act, beyond the limits of the Madras Abkary as prescribed in Act XIX of 1852, except in conformity with the provisions of this Act.

Manufacture and Sale of Liquor to be in conformity with this Act.

IV. The Board of Revenue shall authorize Collectors either to retain under their own immediate management, on account of Government, the exclusive privilege of manufacturing and selling all spirituous and fermented liquors within their respective Districts, or to assign the same wholly or partially, in all or any of the following ways, that is to say—

Exclusive privilege of manufacture and sale may be retained by Government.

First.—It shall be lawful for the Collector, under the authority of the Board of Revenue, to assign for such period as he may think fit, to any person or persons the exclusive privilege of manufacturing or of selling, or of both manufacturing and selling all spirituous and fermented liquors whatsoever, within the whole or any portion of his District, in consideration of a single payment, or of an annual rent.

Or may be assigned to individuals.

Second.—It shall be lawful for the Collector, under the authority of the Board of Revenue to assign to any person or persons the exclusive privilege of manufacturing or of selling, or of both manufacturing and selling, one or more specified spirituous or fermented liquors, and at the same time, in consideration of annual or other payments, to issue licenses for such period as he may think fit, granting permission to the same person, or any other person or persons, to manufacture only, or to sell only, or both to manufacture and to sell within the same or any other limits all or any other liquors the exclusive manufacture and sale of which has not been assigned as above provided, but such licenses shall not carry with them any exclusive right to manufacture or to sell such liquors.

Or exclusive privilege may be assigned as to some liquors, and license without exclusive right granted as to others.

Third.—It shall be lawful for the Collector, under the authority of the Board of Revenue, to issue licenses for such periods as he may think fit, granting permission to any person or persons to manufacture or sell, or both to manufacture and sell all liquors, whatsoever

Licenses may be issued on payment of a fee, or of an excise duty.

or

or one or more specified liquors in consideration of the due payment by such person or persons of a fee, or of an excise duty on the quantity of liquor manufactured or sold.

V. The Board of Revenue shall prescribe the rules and forms of licenses under which the manufacture or sale or manufacture and sale of liquor shall take place, and from time to time, as occasion may require, shall alter, and amend, such rules and licenses.

Board of Revenue to determine forms of licenses.

VI. In cases where exclusive privileges of manufacture or sale, or of manufacture and sale have been granted to a renter or assignee, the Collector, subject to the approval of the Board of Revenue, shall determine the places at which stills and shops shall be erected, the plan on which such shops shall be built, the number of shops and stills in each District or other division of territory, the minimum prices at which liquor shall be sold at such shops, and the measures to be used in the sale of such liquor, the due publication of such prices and measures, and generally all matters relating to the management and control of such places of manufacture or sale.

Collector to lay down Rules as to manufacture and sale.

VII. The form of license for renting out exclusive privileges of manufacture or sale or of both shall specify the time during which it is to be in force, the amount of rent, the periods for payment of the instalments, the minimum price at which liquor shall be sold, and the number of stills and shops and their positions; it shall provide against any improper practices in the stills or shops, or any adulteration of the liquor manufactured or sold, and shall contain such other conditions as the Board of Revenue may consider necessary; and no Abkary renter or other person shall be allowed to establish a still or shop or manufacture or sell liquor, until he shall have obtained such license from the Collector of the District, and have executed an engagement binding himself to conform to its provisions, which engagement shall be lodged with the said Collector.

Form of license.

Manufacture or sale without a license forbidden.

VIII. Every person placed by a Renter or by a Sub-renter, or by the Collector when the Abkary is retained in his management, in charge or a still or shop, shall, first, in the presence of the Tahsildar or other Government Officer authorized in that behalf by the Collector, sign in duplicate an engagement prepared in the Vernacular language of the District containing such conditions as the Board of Revenue may from time to time prescribe, after the same shall have been read over by him, or read and explained to him if he is unable to read it himself. Two witnesses shall be present when the engagement is acknowledged and executed by him, and shall sign their names

Engagement to be entered into by person in charge of still or shop.

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in testimony of such acknowledgment; one copy of the said engagement shall be deposited with the Collector who shall thereon issue a license to the person in charge of such still or shop. The other copy of the engagement and the license shall be fixed up in some conspicuous place in the shop or still.

IX. *First.*—Abkary Renters shall be at liberty to sub-rent their farms on such terms as they and their Sub-renters may respectively agree upon.

Second.—Sub-renters shall execute, in the mode prescribed in Section VIII of this Act, engagements containing such conditions as the Board of Revenue shall from time to time prescribe. No Sub-renter shall establish any still or shop or manufacture or sell any liquor, nor shall any contract of sub-renting be valid at law, or be recognized for the purposes of this Act, unless and until such engagement shall have been executed, and a license agreeably thereto shall have been issued to the Sub-renter by the Collector.

X. Collectors may proceed against Abkary Renters, or other persons licensed under this Act, for the recovery of arrears due by them, in like manner as for the recovery of arrears of Land Revenue, and may further, at their discretion, take the farm under Government management at the risk of the renter, or may declare the lease forfeited, and re-sell the farm at the said Renter's risk and loss.

XI. Renters under this Act are authorized to proceed against Sub-renters for the recovery of arrears in the same manner and subject to the same conditions as land holders are or may be empowered by law to proceed against tenants for arrears of rent.

XII. *First.*—Licenses for the distillation of spirits by the European process shall be issued by the Collector, under the orders of the Boards of Revenue, on the payment of such fee or excise duty as they shall, from time to time, determine.

Second.—Such licenses shall provide that such spirits—except they be methylated and disposed of under the provisions of Act XVI of 1863, or be duly excised with duty by the Collector—shall be exported over sea, or, if sold within the Presidency of Madras, shall be sold only to Officers of Government on account of the public service, or to Abkary Renters for retail sale within the limits of their respective farms.

Third.—No

Third.—No person licensed under this Section shall be entitled to demand that the spirits manufactured by him be excised, but it shall be competent to the Board of Revenue, at their discretion, to permit such spirits to be excised and brought into the market for sale.

XIII. Licenses for the manufacture or sale of liquor under Clause 2 or 3 of Section IV of this Act, shall be granted by the Collector under the orders of the Board of Revenue. Such licenses shall provide against any breach of Abkary privileges granted to any other person, and any improper practices at the place of sale or manufacture, and shall contain such other conditions as the Board of Revenue may consider necessary.

XIV. All persons not being licensed to manufacture or to sell, or to manufacture and to sell liquor are prohibited from having in their possession any quantity thereof exceeding one Imperial Quart without a valid permit, except such quantities of English or Foreign wines, beer or spirits as may be required for *bona fide* private consumption. Permits for the possession of liquor shall be issued only by Collectors, Subordinate, Assistant or Deputy Collectors, or by Abkary Renters.

XV. The transit, without a permit, of any quantity of liquor exceeding one Imperial Quart, is hereby prohibited. Permits for the transit of liquor shall be issued only by Collectors, Sub-Collectors, Assistant or Deputy Collectors, or by Abkary Renters, or their Sub-renters, or by such Public Officers or licensed vendors as may be duly authorized by the Collector to grant such permits.

XVI. The permit of a Collector, or of his Assistant or Deputy or other Public Officer duly authorized by him to grant permits shall pass any quantity of liquor, and shall be held valid throughout the Presidency of Madras; the permit of a Renter, or Sub-renter, shall not pass more than 100 gallons of liquor, and shall not be valid beyond the limits of his farm; and the permit of a licensed vendor shall not pass more than 50 gallons of such liquor as may have been purchased from him; and shall not be held valid in respect of any other liquor or beyond the boundaries of the District in which it is granted.

XVII. All liquor passing through the Territories under the Madras Government, beyond the limits of the Madras Abkary as prescribed by Act XIX of 1852, unaccompanied by a valid permit, or materially differing from the description or quantity specified

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in the permit, and all liquor, except such quantities of English or Foreign wines, beer or spirits as may be required for private consumption, found without a valid permit in the possession of any person not being a licensed vendor, or Officer of Government authorized to dispose thereof, shall be liable, together with the vessels, packages and coverings in which the liquor is found, and the animals and conveyances used in carrying it, to be confiscated by the Collector, subject to the orders of the Board of Revenue, who may grant such portion of the proceeds to the informer and to the person making the seizure, as they may think proper.

Penalty for breach of license to distil. XVIII. Any person having obtained a license for the distillation of spirits by the European process, who shall dispose of such spirits in breach of the conditions prescribed in Section XII of this Act shall, on conviction thereof before a Magistrate, be liable to the forfeiture of his license, and to a fine not exceeding Rupees 1,000.

Penalty for permitting disorderly conduct. XIX. Any person duly licensed under this Act, either to manufacture or sell, or to manufacture and sell liquor, who shall be convicted before the Magistrate of permitting drunkenness or riot in his shop, or place of sale, or manufacture, or of harbouring persons of notoriously bad character, or of mixing or permitting to be mixed with the liquor made or sold by him, any ingredient likely to add to its intoxicating quality, when such admixture shall not amount to the offence of adulteration under Section 272 of the Indian Penal Code, or of keeping or offering such mixed liquor for sale, shall be liable to the forfeiture of his license, and to a fine not exceeding Rupees 200 for each offence.

Penalty for contravention of rules. XX. Any person who shall be convicted before a Magistrate of having wilfully contravened any rule regarding the manufacture or sale of liquor, which may have been prescribed by the Board of Revenue under the authority given in Section V of this Act, or any person duly licensed under this Act, who shall be convicted of having committed any breach of the provisions of his license, for which no special penalty is prescribed under this Act, shall be liable to a fine not exceeding Rupees 100 for each offence, and to the forfeiture of his license.

Penalty for manufacture or sale without license. XXI. Any person who shall manufacture or sell or keep for the purpose of sale any liquor, without being licensed, or at any other place or places than those specified in his license, or after the expiration of his license and before he shall have obtained a new license, shall, on conviction before the Magistrate, be liable to a fine not exceeding Rupees 500 for each offence, and to the forfeiture of his license.

XXII. Any

Penalty for conveying liquor without a license. XXII. Any person who shall convey or attempt to convey more than one Imperial Quart of liquor without a valid permit, or materially differing from the description or quantity specified in the permit, and any person who shall have in his possession without a valid permit more than one Imperial Quart of liquor, except such quantities of English and Foreign wines, beer and spirits as may be required for private consumption, shall, on proof thereof before the Magistrate, be liable to a fine not exceeding Rupees 500 for each offence.

Search Warrants. XXIII. Magistrates are hereby authorized to issue search warrants for the discovery of unlicensed stills, or of liquor illicitly sold, manufactured, or kept in any place. The issue and execution of such warrants shall be governed by the rules laid down in Chapter VIII of the Code of Criminal Procedure so far as the same may be applicable.

Places licensed for manufacture or sale may be inspected by Police without warrant. XXIV. Any Police Officer above the rank of Deputy Constable, may, without a warrant, enter, inspect, and search, at any time, by day or by night, for any of the purposes contemplated in this Act, the house, shop, or premises in which the sale or manufacture of liquor is carried on under this Act.

License to be shown on demand. XXV. Every person who holds a license for the sale or manufacture of liquor, shall keep such license at the house or shop specified in the license, and shall show the license on the demand of any Magistrate, or Police Officer above the rank of Deputy Constable, who shall demand to see it; and any licensed dealer, who shall refuse or be unable to produce his license on such demand, shall, on proof of the same before a Magistrate, be liable to a fine not exceeding 200 Rupees.

Police may stop person in possession of liquor. And seize if no valid pass. XXVI. Any Police Officer may stop and detain any person having possession of or carrying in any public road, street, thoroughfare or place, or in any open shop, any liquor which requires a pass, and if no valid pass be produced to him on his demand, may seize the liquor with the vessels, packages and coverings in which the liquor is found, and the animals and conveyances used in carrying it; and shall thereupon, without delay, take such person, together with the things so seized, before the Magistrate.

Exception as to articles of Medical use. XXVII. Nothing in this Act shall apply to the manufacture, sale or supply of any article for medicinal purposes by recognized Medical Practitioners, Chemists or Druggists.

XXVIII. Nothing

XXVIII. Nothing in this Act shall be construed to restrict the home manufacture of fermented liquor for *bona fide* domestic consumption and not for sale, or to authorize any public officer conducting the sale of liquor on account of the Government, or any Renter, to compel or require the owner or occupier of any private garden or ground, to draw toddy from Cocoa, Date, or other Palm trees. Provided that it shall be competent to the Board of Revenue at any time, by Notification published in the *Fort Saint George Gazette*, to declare such home manufacture to be illegal within the limits of any particular Town or District unless duly licensed under this Act.

XXIX. No Renter of exclusive privileges shall by virtue of such privilege, be entitled to levy any personal tax, ground rent, quit-rent, tope rent, or any tax payable by toddy drawers, and not connected with the exclusive privilege of vending toddy.

XXX. Any penalty imposed under this Act may, in case of non-payment, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

XXXI. In case such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

XXXII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to the Civil Jail, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed Rupees 50, for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months when the amount shall not exceed Rupees 200, for any term not exceeding one year when the amount shall not exceed Rupees 500;

and

and for any term not exceeding two years in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

XXXIII. Nothing in this Act shall be taken to interfere with any of the provisions of Act XVIII of 1853, which shall remain in full force, any thing in this Act to the contrary notwithstanding.

XXXIV. This Act shall take effect from such date as the Madras Government shall fix by an order to be published in the *Fort Saint George Gazette*.

ACT No. V of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1865.)

An Act to provide for the solemnization of Marriages in India of persons professing the Christian Religion.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:—

Preamble.

Preliminary.

Short Title.

1. This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

2. This Act shall extend to all the territories that are or shall 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," and shall commence and come into operation on the first day of May 1865.

Act XXV of 1864 repealed.

3. From and after the commencement of this Act, Act No. XXV of 1864 is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation Clause.

4. 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 United Church of England and Ireland as by law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Rome."
"Roman Catholic."

"Church of Rome" and "Roman Catholic" means and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church."

"Church" shall include 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.

"Native Christians."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Section."

"Section" means a Section of this Act.

"Month" and "Year."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Local Government."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

PART I.

As to the persons by whom marriage may be solemnized.

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

5. From and after the commencement of this Act no marriage between persons one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

6. 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 such person 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, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 (*for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty entitled an Act for Marriages in India*) of the Governor-General of India in Council.

(4.) By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

(5.) By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V of this Act, a license to grant certificates of marriage.

7. From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III, cap. 84, and Act XXIV of 1860 (*for the solemnization of marriages in India by ordained Ministers of the Church of Scotland*) of the Governor-General of India in Council, shall be no longer required.

8. From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

9. From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth Sections, shall be null and void.

10. All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

PART II.

As to the mode of solemnizing Marriages under this Act.

Notice of intended marriage.

11. In every case of intended marriage between persons one or both of whom shall profess the Christian Religion, otherwise than—

1.—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act of 1852 : or

2.—By a Clergyman who has received episcopal ordination according to the rites, rules, ceremonies and customs of the Church to which he belongs : or

3.—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies and customs of that Church : or

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V of this Act—

One of the persons intending marriage shall give notice in writing according to the form contained in the Schedule A to this Act annexed or to the like effect, to the

Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized.

Provided.

Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

12. The Minister of Religion to whom such notice shall have been delivered if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

13. If it be intended that the marriage, shall be solemnized in a private dwelling, the Minister of Religion on receiving, the notice prescribed in the eleventh Section shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

14. When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the twelfth Section shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

15. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

16. If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

17. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, 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 such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made : Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

18. When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

In case of minority certificate not to issue until fourteen days after receipt of notice.

19. Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration 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, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

20. The father, if living, of any minor not being a widower or widow, 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, shall have authority to 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.

21. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

22. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting, the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

23. When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the seventeenth Section, such Minister shall, before issuing such 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 such notice or certificate to such Native Christian into his language, or into some language which he understands.

24. The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

25. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

26. Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

27. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

As to the time for solemnizing Marriages.

28. Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall

be solemnized between the hours of six in the morning and seven in the evening. Provided that this Section shall not apply to 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, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: Provided also that this Section shall not apply to 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 shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

PART IV.

As to the Registration of marriages in India.

29. All marriages solemnized in India from and after the commencement of this Act between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

30. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

31. Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. 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 transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

32. 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 shall be 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.

33. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in the thirty-first Section for Clergymen of the Church of England, of all marriages solemnized by him.

34. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be

kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

35. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and 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.

36. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage 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 shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

37. 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 each certificate was received by the said Marriage Registrar.

38. 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 transmit the same to the Secretary to the Local Government.

39. The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said district, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said district; and the person having the control of the book at the time when it shall be filled, shall send the same 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.

40. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths and Marriages.

41. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

42. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year, the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

43. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage not being a marriage Registrar, may be retained by such person.

44. 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 certificate 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 certificate, 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 copy, or of any entry therein respectively, or of such copy.

45. Nothing contained in this part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852.

46. Every Marriage Registrar hereafter appointed under the provisions of Act V of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

As to the Marriage of Native Christians.

47. And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 are found not to be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a 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 Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

48. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:—

- (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.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:
- (3.) Neither of the persons intending to be married shall have a wife or husband still living:

(4.) In the presence of the person so licensed and of at least two credible witnesses, 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:

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

49. When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Section 48 to be valid.

50. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

51. A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

52. Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

53. This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V of the said Act No. XXV of 1864.

Part V not to apply to Roman Catholics.

PART VI.

As to Penalties.

54. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the hundred and ninety-third Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for false oath, declaration, notice, or certificate for procuring marriage.

55. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in the hundred and fifth Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a marriage Registrar of a certificate by false representation.

56. Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act 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).

Punishment for a person not duly authorized, solemnizing a marriage.

57. Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, 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, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Punishment for solemnizing a marriage otherwise than between six A.M. and seven P.M. or without witnesses.

58. The provisions of the last preceding Section shall 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 shall have received the general or special license in that behalf mentioned in the twenty-eighth Section.

Section 57 not to apply to marriages solemnized under licenses.

59. Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage, when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for solemnizing marriages when either party is a minor within a certain time after notice.

60. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage 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, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

61. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, 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, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent 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; or shall knowingly

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome, solemnizing marriages without publication of notices, &c.

[illegible]

MARRIAGE REGISTER BOOK.

When Married.	NAMES OF PARTIES.			Age.	Condi- tion.	Rank or Profes- sion.	Residence at the time of Marriage.	Father's name and surname.
	Christian.	Surname.						
Day.	Month.	Year.						
126th	July	1865	James	26 years.	Widower.	Carpenter.	Agra.	Wm. White.
			Martha	17 years.	Spinster.	.....	Agra.	John Duncan.

Married in the Free Church of Scotland Church, Agra.
John Young, Minister of the Free Church of Scotland.
This Marriage was solemnized between us { James White, } In the pre- { John Smith.
Martha Duncan, } sence of us { John Green.

CERTIFICATE OF MARRIAGE.

When Married.	NAMES OF PARTIES.			Age.	Condi- tion.	Rank or Profes- sion.	Residence at the time of Marriage.	Father's name and surname.
	Christian.	Surname.						
Day.	Month.	Year.						
126th	July	1865	James	26 years.	Widower.	Carpenter.	Agra.	Wm. White.
			Martha	17 years.	Spinster.	.....	Agra.	John Duncan.

Married in the Free Church of Scotland Church, Agra.
John Young, Minister of the Free Church of Scotland.
This Marriage was solemnized between us { James White, } In the pre- { John Smith.
Martha Duncan, } sence of us { John Green.

ACT No. VI of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd February 1865.)

An Act to continue Act No. XXXI of 1860.

Whereas Act No. XXXI of 1860 (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), is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows:—

Act XXXI of 1860 con-
tinued.

Short Title.

1. Act No. XXXI of 1860 shall continue in force until the first day of October 1866.
2. This Act may be cited as "The Arms' Act Continuance Act, 1865."

ACT No. VII of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th February 1865.)

An Act to give effect to rules for the management and preservation of Government Forests.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows:—

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

“Government Forests” shall mean such land covered with trees, brushwood, or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

“Magistrate” shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such Officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a Subordinate Magistrate as defined in the Code of Criminal Procedure with a view to the exercise by him of such power under this Act.

And in every part of British India in which this Act operates, “Local Government” denotes the person authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor General in Council to exercise the powers of Local Government under this Act.

2. The Governor-General of India in Council within the Provinces under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that such notification shall not abridge or affect any existing rights of individuals or communities.

3. For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

4. Rules made in pursuance of this Act may provide for the following matters:—

First.—The preservation of all growing trees, shrubs, and plants within Government Forests or of certain kinds only—by prohibiting the marking, girdling, felling, and looping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephants tusks, horns, skins and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

5. In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

6. Such Rules when confirmed by the Governor-General in Council and published in the Official Gazette shall have the force of law.

7. All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

8. Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

9. Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

10. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

11. When any timber or other property shall be seized as liable to confiscation under this Act any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

12. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

13. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

14. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

15. When any confiscation or penalty shall be adjudged under this Act, the local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

16. No suit or other proceeding shall be commenced 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 suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the case of suit or other proceeding.

17. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

18. This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

19. This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests Act, 1865."

Power to Local Government to prescribe punishments for infringements of Rules.

Rules when confirmed and published to have the force of law.

Confiscation in case of infringement of Rules.

Arrest and seizure in case of infringement of Rules.

Procedure in case of arrest.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

Procedure in respect of property seized as liable to confiscation.

Penalty for vexatious seizures and arrests.

Enforcement of confiscations and penalties under Rules.

Property on confiscation to vest in Her Majesty.

Remission of penalties.

Limitation of suits under this Act.

Period within which charges to be brought.

Extent of Act.

Commencement of Act.

Short Title.

ACT No. XI of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th March 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.

Whereas it is expedient 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; It is enacted

Preamble.

as follows:—

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

Number.	Words importing the singular number include the plural, and words importing the plural number include the singular.
Gender.	Words importing the masculine gender include females.
"Judge."	"Judge" includes an Acting Judge.
"Section."	"Section" means a Section of this Act.
"Court of Small Causes."	"Court of Small Causes" means a Court constituted under this Act.

And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

2. Act XLII of 1860 (for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter), and Act XII of 1861 (to amend Act XLII of 1860) are hereby repealed: Provided

that any Courts of Small Causes now in existence which shall have been constituted under Act No. XLII of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII of 1860 or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein; and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

3. The Local Government may, with the previous sanction of the Governor-General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to

Constitution of Small Cause Courts.

Limits of their territorial jurisdiction to be fixed by Local Government.

time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

Seal of the Court.

Courts to be generally subject to the High Court.

5. Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

6. The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise: Provided that no action shall lie in any such Court.

(1.) On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2.) For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3.) For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4.) For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

7. The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

8. Court of Small Causes may try all such suits as are described in the sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Explanations.—(a.) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(b.) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office, in respect of any cause of action arising at such place.

(c.) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

9. Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

10. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

11. Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

12. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Panchayats in Madras.

Of Military Courts of Requests.

Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859 (for conferring Civil Jurisdiction in certain cases upon

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Panchayats in Madras.

against Military persons, according to the Rules in force in the Presidency of Madras.

13. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

14. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

15. The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the thirteenth Section.

16. If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

17. Every person invested with the powers of a Judge of a Court of Small Causes under the fifteenth Section shall receive such remuneration as the Governor General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any district or place within the territorial limits of which he is empowered to exercise powers with which he is invested.

18. In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

Summons.

19. When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the movable property of the judgment-debtor within the same limits. If the warrant be directed against the movable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

In suits cognizable by Small Cause Courts, Court on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or movable property.

20. In the execution of a decree under this Act, if, after the sale of the movable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immovable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immovable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Execution against immovable property, if movable property not sufficient.

21. In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside: and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

Decision in suits tried under this Act to be final.

Ex parte decree may be set aside.

22. If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question to the construction of a document which construction may affect the merits of the decision, 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, for the decision of the High Court.

On deposit of debt and costs.

Powers to refer questions of law, &c., to High Court.

23. The Court may proceed in the case notwithstanding such reference, 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 shall have been made, until the receipt of the order of the High Court.

Powers to pass decree contingent upon the opinion of the High Court.

High Court to fix day for the hearing.

Parties may appear and be heard in person or by Pleader.

24. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

25. The parties to the case may appear and be heard in the High Court in person or by Pleader.

26. The High Court when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

Costs of reference to High Court.

27. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

28. When a case is referred to the High Court under the twenty-second Section, the High Court may alter, cancel, or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Powers to High Court to alter or set aside order or decree made in the matter.

Power to appoint one of the Courts of a District to be the Principal Court.

29. Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

30. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Judge of Principal Courts may sit with Judge of any other Court in the District for the trial of reserved suits.

31. The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges sit together for trial of certain suits.

32. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the twenty-second Section of this Act; and the provisions applicable to a reference to the High Court, contained in the twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth Sections of this Act shall be applicable to every reference made under this Section.

Procedure when two Judges differ on a point of law.

Casting voice in case of difference between two Judges on a question of fact.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

33. If two Judges differ on any matter other than the matters abovementioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

34. If a Judge and a person invested with the powers of a Judge as aforesaid differ on any matter other than the matters abovementioned, the Judge shall have the casting voice.

35. It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor General of India in Council.

Appointment of Registrar.

36. The Registrar of every Court of Small Causes shall be the chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the twenty-first Section.

Duties of Registrar.

37. If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections twenty-seven to thirty-two both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

38. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

39. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

40. The Local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

41. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

42. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him; but in any case in which the Registrar shall entertain any doubt upon question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under the twenty-

Procedure where Registrar thinks plaint defective in certain particulars.

Proviso.

Registrar may receive and enter up judgments by confession.

Proviso.

Execution of decrees by Registrar.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

Hearing of suits cognizable by Registrar.

Transfer from Registrar's to Judge's file.

No appeal from decision of Registrar under last Section; but in cases of doubt, he may submit statement for opinion of Judge.

Provisions applicable to such reference.

43. A decree passed by a Registrar under the thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

44. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar of any Court of Small Causes may also be the Clerk of the Court.

45. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

46. The High Court shall have power to make and issue general rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

47. The twenty-sixth Section of Act X of 1862 (to consolidate and amend the Law relating to Stamp Duties), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

48. Nothing in the second Section of the said Act No. III of 1859, or the sixth, seventh and eighth Sections of Act No. XXII of 1864 (to make provision for the Administration of Military Cantonments), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI of 1841 (for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

49. Nothing in this Act, nor in the sixth, seventh and eighth Sections of the said Act XXII of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer, under any such Statute to assemble such Courts.

50. When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with the provisions of Act XLII of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Reference in previous Acts to Act XLII of 1860 to be read as applying to this Act.

Saving of jurisdiction of Courts of Requests.

Saving of Act XI of 1841, Section 17.

Provisions of Section 26 of Act X of 1862, and of Act VIII of 1859 made applicable to cases cognizable under this Act.

second Section of this Act, state a case for the opinion of the High Court; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Setting aside decree by a Registrar under Section 38.

Appointment and removal of Clerks of the Court.

Duties of Clerk.

High Court empowered to make rules of practice, &c.

51. Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

52. In the places in which the provisions of Act X of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*), are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859 except the power of hearing appeals.

53. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

Power to give a Small Cause Court Judge the powers of Principal Sudder Ameen or a Magistrate.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X of 1859.

Small Cause Courts to furnish records, &c, called for by Local Government or High Court.



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 21st March 1865, and is hereby promulgated for general information:—

Act No. XIII 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.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows:—

Preliminary.

Short Title.

1. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation Clause.

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

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, respectively.

"Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown."

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act:

"British India."

"British India" denotes the territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

Gender and Number.

Of Charges where the accused is committed in a Presidency Town.

3. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed; within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider, and, if he will, to amend, alter, or add to the charge.

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

5. The person charged shall also be entitled to copies of the examinations 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.

Accused to have copies of examinations.

6. 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 eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Effect of charge.

7. In Act 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), the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

Provisions of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

8. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* 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, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Nolle prosequi on unsustainable charge.

Of Grand Juries.

9. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries, shall be liable, except as hereinafter provided, to serve on such Juries.

After commencement of this Act, Grand Jury not to be summoned.

10. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

Of Juries in Presidency Towns.

11. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

Certain trials to be held before Special Jurors.

12. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The Jurors' Book for the current year, to be taken as giving the first list of Jurors and Special Jurors.

13. The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

After which the number of Special Jurors not to exceed two hundred.

14. All persons whose names are entered in the "Special Jurors' List," shall be exempted from serving on any other than Special Juries.

Special Jurors exempted from serving on Common Juries.

15. The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Preparation of lists of Jurors and Special Jurors.

16. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Officer preparing the lists to have full discretion: no appeal from his decision.

17. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Lists of Jurors to be published in the Gazette.

18. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Jurors and Special Jurors to be summoned for each Sessions.

Of Challenges of Jurors in the Presidency Towns.

19. A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

Challenges.

(1.) 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.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

20. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

Judge to try challenge.

21. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empannelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

High Court to retain its present jurisdiction as to Jurors in Presidency Towns, except as altered by this Act.

Of sittings under a Commission.

22. From and after the commencement of this Act, whenever it shall appear to the Governor General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

23. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

24. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

25. The High Court May allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

High Court may allot jurisdiction to Judge acting under Commission.

26. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the districts or places within which such Commission shall remain in force; and such time and the limits of such districts or places shall be notified in the Official Gazette.

Commission to specify time and place during and in which it shall travel.

27. The Governor General of India in Council of the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Power to appoint an Associate Judge.

28. Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent to the Clerk of the Crown shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

Charge to be delivered with record of preliminary inquiry without the local limits of the original criminal jurisdiction.

The charge shall be deemed a charge under the Criminal Procedure Code.

29. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper

If unsustainable, the proceedings may be stayed.

Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on 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, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to as last aforesaid or not shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

30. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, 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.

31. 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. In any such case the High Court may direct further that the notice required by the twenty-eighth Section of this Act to be given and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

32. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

33. The Judge of the High Court acting under such Commission in the place and the manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and

within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

34. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

35. Whenever the Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, 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 persons charged with offences before the Judge of the High Court acting under Commission 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 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 persons triable by such Judge of the High Court acting under such Commission 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 Officers have been summoned, then solely from the persons summoned under the same Sections.

36. If the person charged shall be a European British subject and shall so require before the Jury shall be empanelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

37. On every trial mentioned in the thirty-fourth Section of 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.

38. During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

39. So much of the three hundred and eightieth Section 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 said 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 a Judge of the High Court acting under Commission as aforesaid.

Procedure pending directions of High Court.

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.

Jurisdiction over European British subjects tried under Commission.

Code of Criminal Procedure to apply to such subjects, except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

Trials under Commission to be by Jury.

Summoning of Jurors to serve on trials under Commission.

Military men not exempt.

Jury for trial of European British subject.

Number of Jury requisite to verdict of guilty.

Acts not of a judicial nature may be done by Clerk of the Crown.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

40. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

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 a judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

41. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision 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.

Power to reserve for High Court any question of law or evidence.

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

Procedure where no such question reserved.

Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

42. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the

Save as aforesaid, Criminal Procedure Code to apply to Juries under Commission.

purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

43. If the Judge of the High Court think fit, he may direct the Associate

High Court Judge may direct Associate Judge to try any one triable under Commission not an European British subject.

Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remained in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

44. From and after the commencement of this Act, it shall be lawful for the

Power to Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore

contained) should be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

45. This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

Commencement of Act.

Act not to extend to Straits Settlement.

46. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHITLEY STOKES, *Offg. Asst. Secy. to the Govt. of India, Home Department (Legislative).*

Republished by Order of His Excellency the Governor in Council.

A. J. ARBUTHNOT,
Chief Secretary.

ACT No. XVIII OF 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th April 1865.)

An Act to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties.)

Preamble.

Whereas it is expedient to amend Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) ; It is enacted as follows :—

Act X of 1862, Section 33, repealed.

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof :—

Governor General in Council may lower rates of Stamp Duty on any Deeds, &c., mentioned in the Schedule, or on any class of such Deeds, &c.

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings, belonging to such class ; or on any of the Deeds, Instruments, and Writings, as aforesaid, 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. Such cancelment or variation shall also be published in the Official Gazette.

Addition to Act X of 1862, Schedule B, Article 11.

3. Article eleven of Schedule B to the said Act X of 1862, shall be read as if after the words and figures “ Act III of 1859,” the following words were inserted, that is to say, “ or in Courts of Small Causes established under Section six of Act XXII of 1864” (*to make provision for the administration of Military Cantonments*).

This Act to be taken as part of Act X of 1862.

4. This act shall be read with and taken as part of the said Act No. X of 1862.

ACT No. XX OF 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th April 1865.)

An Act to amend the law relating to Pleaders and Mookhtars.

Preamble. Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents; It is enacted as follows:—

Preliminary.

Short Title. 1. This Act may be cited as "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

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

Number. Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section." "Section" means a Section of this Act.

"Person." "Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader." "Pleader" includes Vakeels.

"Collector." "Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate." "Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge." "Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court." "Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the

"District." Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation, exer-

"District Court." cising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, "Local Govern-

"Local Government." ment," denotes the person authorized to administer the execu-

"High Court." tive Government in such part: "High Court" denotes the

"Board of Revenue." highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

3. So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except

Laws repealed. so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Of Pleaders and Mookhtars.

4. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time, vary and add to such rules.

5. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act, as a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

6. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

7. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

8. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

9. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

10. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(a.) In the High Court and any subordinate Court—Rupees fifty:

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five:

(c.) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen:

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(e.) In the High Court and any subordinate Court—Rupees twenty-five:

(f.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen:

(g.) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees eight:

(h.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees four.

11. Pleaders duly admitted and enrolled under this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

12. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceeding Section shall apply to any Court established by Royal Charter.

13. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

14. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

15. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

16. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any Officer other than the District Judge shall be submitted to the High Court through the District Judge, who shall accom-

pany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

17. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

18. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Of Agents practising in the Revenue Offices.

19. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

20. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

21. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

22. The stamp on such certificate, whether original or renewed, shall be of the following value—On a certificate authorizing the holder to practise as a Revenue Agent.

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen.
In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten.

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

23. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act

in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

24. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

25. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him, and subject to the conditions as aforesaid to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

26. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

27. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

28. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

29. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

30. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

31. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue, shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29, or 31.

32. The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eight, twenty-ninth or thirty-first Section.

33. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months.

Dismissed Revenue Agent to surrender his certificate.

34. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees two hundred and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

35. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

36. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

Of the Remuneration of Pleaders and Revenue Agents.

37. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

38. The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

39. Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

Section 37 not to apply to Agents appointed under Section 35.

Clients may make private agreements with their Pleaders, Mookhtars or Revenue Agents as to remuneration.

Miscellaneous.

40. Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the pro-

Suitors may appear, &c., for co-suitors.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

visions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefore.

41. The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

42. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

43. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

44. With the exception of Section thirty-nine this Act shall not apply to Advocates, Vakeels and Attorneys-at-law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

45. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Officer is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

46. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

47. This Act shall take effect in the Territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

Rules to be published in the Gazette.

Fines subject to revision.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

Act not to apply to Advocates, &c., admitted & enrolled by any High Court under Letters Patent.

Advocates and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.

Attorney of a High Court may plead in any Court not a High Court.

Commencement and extent of Act.

48. From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

FIRST SCHEDULE.

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section xxv.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section y, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.

Number and date of Acts.	Title.	Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1853.	To amend the law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	So much of Section lxxi as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Stamp.

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [or Mookhtar], whose place [or places] of business is [or are] at hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [or the Sudder Court of the North-Western Provinces, or as the case may be] and that he is entitled to practise as a Pleader [or Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [or the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameen's Courts, or the Moonsiffs' Courts as the case may be] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [or of the North-Western Provinces, or as the case may be] for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Registrar [or as the case may be] of the High Court of Judicature at Fort William in Bengal [or of the Sudder Court of the North-Western Provinces, or as the case may be.]

THIRD SCHEDULE.

Form of Revenue Agents' Certificate.

Stamp.

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [or of the Lower Provinces, or as the case may be], and in any office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [or the Lower Provinces, or as the case may be.]

ACT N^o. XXVII OF 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 17th August 1865.)

An Act to make temporary provision for the decision of Civil Appeals in the Districts within the Lieutenant Governorship of the Punjab.

WHEREAS it is necessary, pending the establishment of the Chief Court in the Punjab, under Act XXIII of 1865, to make special provision for the decision of such Appeals as previously to the passing of Act XIX of 1865 were heard by the Financial Commissioner : It is enacted—

I. Until such time as Act XXIII of 1865 shall come into operation, the Government of the Punjab may invest the Financial Commissioner of the Punjab with the powers of Judicial Commissioner, for the purpose of trying generally Appeals in respect of suits regarding land, or the rent, revenue, or produce of land, anything in Act XIX of 1865 to the contrary notwithstanding.

II. The provisions of this Act shall apply to all such Appeals as aforesaid, whether filed before or after the 1st of May 1865.

MADRAS.

ACT No. III OF 1865.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

(Received the assent of the Governor on the 21st February 1865, and of the Governor General on the 4th March 1865.)

An Act to make better provision for the punishment of offences against Special and Local Laws.

Whereas it is expedient to give Magistrates in the Madras Presidency jurisdiction to the extent to their ordinary powers in respect of offences created by Special and Local Laws in the said Presidency, it is enacted as follows :—

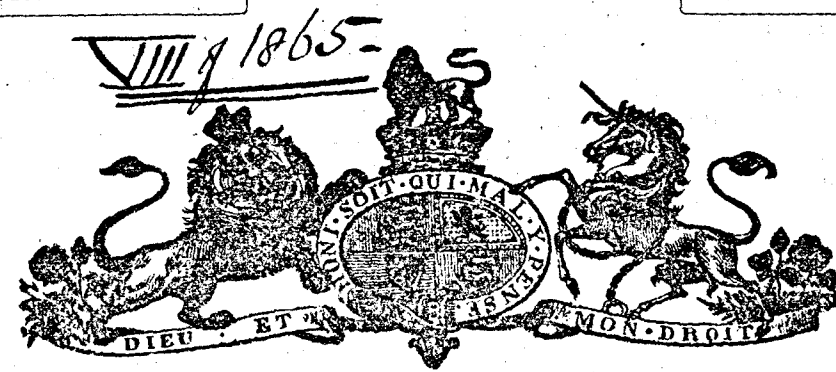
Preamble.

Magistrates to have jurisdiction over offences created by Special or Local Laws to the extent of their ordinary powers.

I. Every Magistrate within the Madras Presidency shall be authorized to take cognizance of any offence committed within his local jurisdiction, against any Special or Local Laws now in force in the said Presidency, notwithstanding any provision to the contrary in any Act or Regulation now existing; and also of any offence against any Special or Local Law which may hereafter be passed, unless such law shall make the offences to which it refers punishable by some other authorities therein specially mentioned. Provided always, that every such Magistrate shall be restrained within the limits of his ordinary jurisdiction as to the amount of punishment which he may inflict.

II. This Act shall come into effect from such date as the Governor in Council may notify in the *Fort Saint George Gazette*; and it shall also be lawful for the Governor in Council from time to time by a similar Notification to exclude any particular law, either generally, or in any special locality, from the operation of this Act.

Operation of the Act.



ACTS OF THE GOVERNMENT OF MADRAS.

THE following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General on the 19th September 1865, and is hereby promulgated for general information :—

RENT RECOVERY ACT.

ARRANGEMENT OF SECTIONS.

Section.

1. Interpretation Clause.
Landholder.
Tenant.
Collector.
Gender.
Number.
2. Mode of enforcing arrears.
3. Written agreements to be exchanged between landholders and their tenants.
4. Contents of Puttah and Muchilka.
5. Remedy in case of unauthorized exaction.
6. Puttahs and Muchilkas to be signed and registered.
7. No suit to be brought unless Puttahs and Muchilkas have been exchanged, or tendered or dispensed with.
8. Refusal to grant Puttahs.
9. Refusal to receive Puttahs.
10. Course of adjudication in Suits specified in the preceding Section.
11. Rules for deciding disputes as to rates of rent.
All Contracts to be enforced.
Rent how fixed in Surveyed Districts.
Mode of determining rate of rent when no contract exists.
In case of immemorial waste lands, landholders to arrange terms of rent.
Saving of special rights.
Additional rent may be demanded on account of improvements.
Puttahs granted at a low rate not to bind successors except in certain cases.
12. Mode of ejectment.
Surrender of lease.
13. Recovery of rent by landholders under Ryotwar Settlements, &c.
14. Arrear of rent.
May be recovered by distress.
15. Seizure and sale of moveable property.
Demand of Arrear.
Copy to be left with defaulter.
Or, if absent, at his residence.

Section.

16. Written notice of distraint to be sent to Collector.
Property to be appraised.
17. Effect of irregularity.
18. Order for sale of distress.
19. Distraîner may procure assistance of Police.
20. Distraîner liable for loss of, or injury to, property.
21. Mode of dealing with crops.
22. On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.
23. Distraîned cattle or goods not to be used.
24. Distress to be proportionate to the arrear.
25. Time of distress.
26. Penalty for fraudulent conveyance of property to prevent distress.
27. Penalty for forcibly or clandestinely taking away distraîned property.
28. What places distraîner may force open.
29. Powers of distraîner to force open doors in the presence of a Police Officer.
30. Punishment for unlawful entry.
31. Expense of countermanded sales to be sustained by the defaulter.
And recovered as an arrear.
32. Claims by third parties.
33. Sale of distress.
Interest and Commission.
34. Expenses how determined.
35. Payment on the purchase of distraîned property how to be made.
Re-sale in case of default.
36. Effect of irregularity in sale.
37. Interest on arrears.
38. Power to sell defaulter's interest in land.
39. Notice to be given of intention to sell.
40. Mode of sale.
41. Ejectment for non-payment of rent.
Statement on which warrant is to issue.
42. Warrant.
43. Execution of the Warrant.
44. Effect of delivery of possession.
45. Power of arrest.
46. Warrant.
47. Procedure when arrears are disputed.
Stay of execution.
48. Period of imprisonment, and rate of subsistence.
49. Summary Suit where Act is wrongfully enforced.
50. Procedure.
Plaint.
Documents to be produced.
51. Limitation of summary suits.
52. Agents may be employed.
53. Summons to Defendant.
Documents to be produced at first hearing.
54. When Defendant may be required to appear in person.
55. Service of Summons.
56. Personal attendance of Plaintiff.
57. Default by both parties.
By Plaintiff.
Effect of admission by Defendant.
Default by Defendant.
58. No appeal where judgment on default or ex-parte.
Suit may be revived.
59. Payment before hearing.
60. Powers of Collectors.

Section.

61. Production of Witnesses.
62. Service of Process.
Deposit of costs.
63. Mode of taking evidence.
64. Record.
65. Proceedings to be summary.
66. Postponement or adjournment of hearing.
67. Local inquiry.
68. Judgment.
69. Appeal within thirty days.
To be only upon the merits.
70. Execution how and when to issue.
71. Delivery of Puttah how enforced.
72. Delivery of Muchilka how enforced.
73. Delivery of possession.
74. Reference to arbitration.
75. Exemption from Stamp duties.
76. No revision except by appeal or under Section 58.
77. Register of summary suits.
78. All ordinary rights of action saved.
Limitation of time.
Protection to Revenue or Police Officers.
79. Landholders may delegate their powers under this Act.
80. Heirs may proceed for arrears.
81. Refusal to grant receipts.
82. Collector may order tenant to furnish security.
83. Clandestine removal of crop.
84. Landholder may proceed against tenant, or his security, or both.
85. Powers of Managers of estates, and Officers holding under attachment.
86. Farmers of Public revenue may proceed under this Act against sub-renters if there be written engagements.
87. Act not to prevent landholders or others from filing suits in Civil Courts for arrears of rent or revenue.
88. Scope of the Act.
89. Regulations repealed.
90. Date at which Act is to come into operation.

MADRAS.

Act No. VIII of 1865.

An Act to Consolidate and improve the laws which define the process to be taken for the recovery of rent.

Whereas it is expedient to consolidate and simplify various laws which have been passed relative to landholders and their tenants and to provide a uniform process for the recovery of Rent; it is enacted as follows:—

Preamble.

Interpretation Clause.
Landholder.

1. The term "landholders" when used in this Act shall be taken to include the following persons:—

All persons holding under a Sunnud-i-Milkeut Istimrar, all other Zemindars, Shrotriendars, Jaghiredars, Inamdars, and all persons farming lands from the above persons or farming the Land Revenue under Government.

Also all holders of land under Ryotwar Settlements or in any way subject to the payment of Land Revenue direct to Government, and all other registered holders of land in proprietary right.

Tenant.

The term "tenant" shall, for the purpose of this Act, include all persons who are bound to pay rent to a landholder.

The word "Collector" shall be taken to denote every officer who, for the time being, is authorized to exercise the powers of a Collector. Words in the masculine gender shall be taken to include the feminine, and words in the singular number shall be taken to include the plural, unless the contrary shall appear by the context.

Collector.

Gender.

Number

2. Landholders shall have authority to proceed against tenants for arrears of rent in the manner and on the conditions hereinafter laid down: provided always, that process against a tenant under this Act must be taken within one year from the time when the rent became due.
- Mode of enforcing arrears.*
3. Zemindars, Jaghiredars, Shrotriendars, Inamdars, and persons farming lands from the above persons, or farming the Land Revenue under Government, shall enter into written agreements with their tenants, the engagements of the landholders being termed Puttah, and those of the tenants being termed Muchilka.
- Written agreements to be exchanged between landholders and their tenants*
4. The Puttah shall contain the names of the contracting parties; the local description and extent of the land; the amount and nature of the rent, according as the same may be payable in money, or in kind, or by a share of the produce including any fees or charges payable with it according to established usage or to law; the period at which payments are to be made; the date of the contract; and all other special terms by which it is intended that the parties shall be bound. The Muchilka shall, at the option of the landholders, be a counterpart of the Puttah, or a simple engagement to hold according to the terms of the latter.
- Contents of Puttah and Muchilka.*
5. The landholders specified in Section 3 shall not levy any unauthorized tax on their tenants under any name or under any pretence. Every tenant from whom any sum is exacted in excess of the rent, or other authorized charge specified in his Puttah, shall be entitled to recover by a summary suit before the Collector double the amount so exacted with costs. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the receiver of such sum in excess of the proper rent and authorized charges may be subject by law for extortion.
- Remedy in case of unauthorized exaction.*
6. Puttahs and Muchilkas shall be regularly signed and registered by the Curnum of the village in which the lands engaged for are situated.
- Puttahs and Muchilkas to be signed and registered.*
7. No suit brought, and no legal proceedings taken to enforce the terms of a tenancy, shall be sustainable unless Puttahs and Muchilkas have been exchanged as aforesaid, or unless it be proved that the party attempting to enforce the contract had tendered such a Puttah or Muchilka as the other party was bound to accept, or unless both parties shall have agreed to dispense with Puttahs and Muchilkas. Such tender shall be sufficiently evidenced by such proof of service as is provided for by Section 39 in the case of notices. But it shall not be necessary to send duplicates of such documents to the Collector.
- No suit to be brought unless Puttahs and Muchilkas have been exchanged, or tendered or dispensed with.*
8. When any of the landholders specified in Section 3 shall, for three months after demand, have refused to grant such a Puttah as his tenant was entitled to receive, it shall be lawful for the latter to proceed by filing a summary suit before the Collector, who shall try the case and direct a proper Puttah to be granted, and shall award to the tenant such costs and damages as may be shown to have been incurred.
- Refusal to grant Puttahs.*
9. When a tenant shall, for one month after demand, have refused to accept such a Puttah as the landholders specified in Section 3 are entitled to impose, and to grant his Muchilka in exchange, it shall be lawful for such landholders to proceed by a summary suit before the Collector to enforce acceptance of the Puttah.
- Refusal to receive Puttahs.*
10. In adjudicating the suits specified in the preceding Section, the Collector shall first enquire whether the party sued was bound to accept a Puttah and give a Muchilka, and unless this be proved the suit shall be dismissed with costs. Should the plaintiff establish the above point, the Collector shall enquire whether the Puttah tendered is a proper one. If he shall be of opinion that it is a proper one, he shall pass a judgment directing the defendant to accept the Puttah and to execute a Muchilka in accordance with it, and to make good any damages that may have been incurred by his previous refusal. If the Collector shall be of opinion that the Puttah tendered is not a proper one, he shall
- Course of adjudication in Suits specified in the preceding Section.*

decide, in the mode prescribed in the next following Section, what Puttah ought to be offered, and shall then pass a judgment ordering the defendant to accept such Puttah and to execute a Muchilka in accordance with it. If within ten days from the date of the Collector's judgment, the defendant shall not have accepted the Puttah as approved or amended by the Collector as aforesaid, and shall not have executed a Muchilka in the terms of the said Puttah, the Collector, on application made to him by the Plaintiff, and on proof of such default on the part of the defendant, shall pass an order for ejecting the Defendant.

11. In the decision of suits involving disputes regarding rates of rent which may be brought before Collectors, under Section 8, 9, and 10, the following Rules shall be observed:—

Rules for deciding disputes as to rates of rent.

All contracts to be enforced.

Rent how fixed in surveyed Districts.

Mode of determining rate of rent when no contract exist.

In the case of immemorial waste lands landholders to arrange terms of rent.

Additional rent may be demanded on account of improvements.

Puttahs granted at a low rate not to bind successors except in certain cases.

Mode of ejectment.

Surrender of lease.

I. All contracts for rent, express or implied, shall be enforced.

II. In Districts or villages which have been surveyed by the British Government, previous to 1st January 1859, and in which a money assessment has been fixed on the fields, such assessment is to be considered the proper rent when no contract for rent, express or implied, exists.

III. When no express or implied contract has been made between the landholder and the tenant, and when no money assessment has been so fixed on the fields, the rates of rent shall be determined according to local usage, and when such usage is not clearly ascertainable, then according to the rates established, or paid for neighbouring lands of similar description and quality. Provided that if either party be dissatisfied with the rates so determined, he may claim that the rent be discharged in kind according to 'the Warum,' that is, according to the established rate of the village for dividing to the crop between the Government or the landlord and the cultivator. When 'the Warum' cannot be ascertained, such rates shall be decreed as may appear just to the Collector after ascertaining if any increase in the value of the produce or in the productive power of the land has taken place otherwise than by the agency or at the expense of the ryot.

IV. In the case of immemorial waste land and of lands left unoccupied, either through default or voluntary resignation, it shall be lawful for landholders to arrange their own terms of rent; provided that nothing in this rule shall be held to affect any special rights which by law, or usage having the force of law, are held by any class or person in such waste or unoccupied lands.

Provided always that nothing herein contained shall affect the right of any such landholder, with the sanction of the Collector, to raise the rent upon any lands in consequence of additional value imparted to them by works of irrigation or other improvements executed at his own expense, or constructed at the expense of Government, and for which an additional revenue is levied from him. Provided also, that no Puttahs which may have been granted by any such landholder at rates lower than the rates payable upon such lands or upon neighbouring lands of similar quality and description shall be binding upon his successor, unless such Puttah shall have been *bona fide* granted for the erection of dwelling houses, factories or other permanent buildings, or for the purpose of clearing and bringing waste land into cultivation, or for the purpose of making any permanent improvement thereon, and unless the tenant shall have substantially performed the conditions upon which such lower rates of assessment were allowed.

12. The landholders specified in Section 3 are not empowered to eject tenants from their lands except by a Decree of a Civil Court or under the provisions of Sections 10 or 41 of this Act. Tenants ejected without such due authority may bring a summary suit before the Collector to obtain re-instatement with damages. Provided always, that tenants shall be allowed to relinquish their lands at the end of the revenue year by a writing to be signed by them in the presence of witnesses, or, at any other time, if the landholder is willing to accept the relinquishment.

13. All landholders under Ryotwar Settlements or in any way subject to the payment of land revenue direct to Government, and all other registered holders of land in proprietary right shall be authorized to proceed under this Act for the recovery of rent, if they have taken a lease or agreement in writing from their tenants specifying the rent to be paid to them, but not otherwise.

14. When rent shall remain unpaid at the time when, according to any written agreement or the custom of the country it ought to have been paid, the amount remaining unpaid, shall be deemed an arrear of rent. It shall be lawful for landholders to distrain upon their own responsibility the crops and moveable property of their tenants for the recovery of arrears of rent due by them.

15. In the seizure and sale of moveable property for arrears of rent, the following rules shall be observed.

1st.—The landholder or his authorized Agent shall furnish to the person employed to distrain the property of a tenant a demand in writing signed with his name, specifying the name of the tenant, the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear be not at once paid, or if no arrangement for securing the same be entered into to the satisfaction of the distrainer, shall be his authority for making the distress, and, on the day on which the property may be distrained, he shall deliver a copy of such writing to the tenant, endorsing thereon a list of the property distrained, the name of the place where it may be lodged or kept, and a notice that it will be brought to public sale in due course unless the amount of the arrear, with interest and the expenses of the distress, be previously discharged.

2nd.—When the tenant may be absent, a copy of the writing with the endorsement shall be fixed or left, on the day of the distraint, at his usual place of residence, or on the premises where the property may have been distrained.

16. The distrainer shall also send, within ten days, a written notice to the Collector, or Officer empowered by the Collector in that behalf, in which shall be stated the details of the property seized, the name of the defaulter, the amount in arrear, and the date of the seizure. The date on which this notice is received shall be endorsed upon it, and the Collector, or Officer empowered by the Collector in that behalf, shall send a copy of it to the nearest Public Officer empowered to sell distrained property under Act VII of 1839, in order that the property may be at once appraised and eventually sold, if necessary, for the discharge of the arrear with interest and costs of distraint. The details of the appraisement shall be drawn out in writing and signed

by the persons whom the said Public Officer may nominate to make it, as well as by the said Officer himself.

17. Officers empowered to sell distrained property are required to bring to the notice of Collectors any material irregularity committed by distrainers under color of this Act, and are authorized, in such a case, to postpone a sale pending the Collector's order. When it shall come to the Collector's knowledge, either through the above demand and the list of distrained property required by Section 15, or failed to give the prescribed notice of the distraint to the Collector, or Officer empowered by the Collector in that behalf, the Collector shall direct the restoration of the distrained property to the owner. The distrainer shall not be allowed to proceed further under this Act for the recovery of the arrear of rent, and the tenant shall be at liberty to sue him summarily before the Collector for any loss or damage which he may have sustained.

18. If the tenant does not appeal against the distraint by filing a summary suit before the Collector within thirty days from the date of such distraint, or if a suit is filed and decided against him, the distrainer shall, within fifteen days, apply to the Collector

for an order directing the Public Officer empowered by Act VII of 1839, to cause the sale of the distrained property, who, on receiving such order, shall fix up in some conspicuous place in the village a notice specifying the property to be sold, and the time and place which he has fixed on for its sale. He shall also cause proclamation of the intended sale to be made, by beat of drum, in the village to which the lands belong on which the arrear has accrued. In fixing the day of sale, not less than seven days must be allowed from the time of the public notice, and not less than thirty days from the date of distraint.

19. Persons authorized to distrain for arrears of rent may apply to the nearest Police station for such assistance as may be necessary to prevent any breach of the peace, and the authority to whom such application is made shall depute one or more Police Officers to be present at the time of such distress, and it shall be their duty to prevent resistance or breach of the peace, and also to give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon if required.

20. When property distrained may be stolen or lost, or damaged or destroyed while in the keeping of the distrainer by reason of his not having taken the necessary precautions for its due preservation, he shall be responsible to the owner for the loss or damage, and the Collector shall be authorized to pass a judgment to that effect on a summary suit being brought before him, and on the loss or damage being proved.

21. The distrainer attaching the crops or ungathered products of the land belonging to the defaulter, may cause them to be sold when fit for reaping or gathering, or, at his option, may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner on redeeming his property, or from the proceeds of the sale in the event of its being sold.

22. When a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered, and shall forthwith release the property.

23. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained; he shall provide the necessary food for the cattle or live stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

24. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrears.

25. Distress shall be made after sunrise and before sunset, and not otherwise.

26. When a defaulter may make a fraudulent conveyance of property to prevent the distress of arrears, any Civil Court of competent jurisdiction upon proof thereof shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by Section 424 of the Indian Penal Code.

27. When it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.

28. It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he 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 attaching property belonging to a defaulter and lodged therein; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the Zenana or residence of women, except as hereinafter provided.

29. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police station. On such representation, the officer in charge of the said station shall send a Police Officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the Zenana. The distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a Zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who according to the customs of the country cannot appear in public), enter the Zenana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

30. Persons entering the apartments of women, or forcing open the outer door of dwelling houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees five hundred or to imprisonment of either description for any period not exceeding six months.

31. When property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the owner of the property shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such owner omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

32. Claims to crops upon the ground and gathered products of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim to rent due from the ground upon which such crop or product may have been grown. But if before the day fixed for the sale a third party appear before the Collector or Officer empowered by the Collector in that behalf, and claim a right or interest in any of the other moveable property under distraint, the Collector shall hold, or cause to be held, an immediate inquiry, and if he sees sufficient cause for doing so may postpone the sale of such property. The Collector shall adjudicate upon the claim and pass such order between the claimant and distrainer as shall seem fit. If the claimant fails to establish his right an order shall be issued for proceeding with the sale. No appeal shall lie from any order passed by a Collector under this Section, but the party against whom the order may be given shall be at liberty to bring a suit in the Civil Court to establish his right; provided that if the Collector's order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the person by whom the property was brought to sale.

33. At the appointed time the Public Officer empowered to sell distrained property shall put up the property to sale in one or more lots as he may consider advisable, and shall dispose of it to the highest bidder. If the arrear, with interest and costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn as respects the remainder. When the property put up to auction may sell for more than the amount of the arrear, the overplus after deducting expenses of process, interest, and a sale commission of six and one quarter per cent., shall be paid to the defaulter. The abovementioned sale commission is to be carried to the credit of Government.

34. The said Officer shall, in every case, examine the distrainer's statement of the expenses incurred in attaching the property and bringing it to sale, and shall reject any part appearing to him unreasonable. If either the distrainer, or the owner of the distrained property, shall be dissatisfied with the said Officer's decision, the Collector is hereby authorized, on an application being made to him by either party, to determine the expenses incurred in attaching the property and bringing it to sale, and the Collector's order shall be final.

35. The property shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full. When the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as for the expenses incurred on the re-sale, and such loss and expenses shall be recoverable by summary suit before the Collector. When the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made. When the purchase money has been paid in full the Officer holding the sale shall give the purchaser a certificate, describing the property purchased by him, the date of sale, and the sum paid.

36. No irregularity in publishing or conducting a sale of moveable property under this Act shall vitiate such sale, but any person who may have sustained damage by reason of such irregularity shall be allowed to bring a summary suit before the Collector to recover compensation for such damage.

37. Interest shall be chargeable on arrears under this Act at the rate of 1 per cent. per mensem.

38. When arrears due to any of the landholders specified in Section 3 may not be liquidated within the current revenue year, and when by express contract or by the usage of the country the defaulter may have a saleable interest in the land on which the arrear is due, it shall be lawful for such landholder to sell such interest in satisfaction of the arrears and of interest thereon at the prescribed rate, and of costs of attachment when any such has taken place.

39. When the person to whom an arrear is due intends to avail himself of the powers given by the preceding Section, he shall give the defaulter a written notice of his intention to sell, and such notice shall state the amount due for arrears, interest, and costs, if any, and shall inform him, that if the amount is not liquidated within one month from the date of service upon him his interest in the land shall be sold. The notice shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or, when such service cannot be effected, by affixing a copy of the notice on some conspicuous part of his last known residence, or on some conspicuous part of the land to which it refers. A duplicate of the notice shall also be sent to the Collector, with an endorsement stating the date of service, and the mode in which it was effected.

40. When no appeal has been made to the Collector against such notice by preferring a summary suit within one month from the date of service upon the defaulter, or as above specified, or when an appeal has been decided against the defaulter, the party entitled to the arrears shall be authorized to take measures for the sale, which shall be conducted under the rules laid down for the sale of moveable property distrained for arrears of rent.

41. When any tenant shall be in arrear at the end of the current revenue year and when there is no sufficient distress upon the premises to satisfy the same, and when the tenant has no saleable interest in the land, it shall be lawful for a landholder, or for his authorized agent, to apply to the Collector for a warrant, authorizing him to enter upon and take possession of, the premises. Such warrant shall be

Statement on which warrant is to issue.

granted upon the production of a written statement of the person applying for the warrant, which shall contain the name of the defaulter, the description and extent of the premises, the amount due for arrears, interest, and costs of attachment, if any, and the date at which it fell due, and also a declaration that there is no sufficient distress upon the premises, and that the tenant has no saleable interest therein. Such statement shall be filed in the office from which the warrant issues.

42. The warrant shall state the defaulter's name, the whole amount due, and the description and extent of the premises, and shall set forth that unless payment is made within fifteen days, the defaulter will be turned out of possession.

Warrant.

43. The warrant shall be entrusted to some Officer of Police, who shall serve it in the manner laid down in Section 39, of this Act. When no appeal shall be preferred to the Collector within fifteen days after service, or when an appeal has been preferred and decided against the defaulter, and when the amount named in the warrant is not discharged, the Police officer shall place the person who has procured the warrant in possession.

Execution of the Warrant.

44. Upon delivery of possession the tenancy existing between the defaulter and the landholder shall cease and determine, unless an action shall be brought in the proper Court of Civil Judicature, within one month, to reverse such delivery of possession, and shall be prosecuted to a successful termination.

Effect of delivery of possession.

45. When the arrear cannot be liquidated by distress and sale of the moveable property of the defaulter, or by the sale of his interest in the land, it shall be lawful for a landholder, or his authorized agent, to apply to the Collector for a warrant for the personal arrest of the defaulter, which shall be granted upon the production of a written statement such as is prescribed by Section 41 of this Act, if the Collector shall have reason to believe that the defaulter, or his security, is wilfully withholding payment, or has been guilty of fraudulent conduct in order to evade payment.

Power of arrest.

46. The warrant shall state the defaulter's name, the description and extent of the land on which the arrear accrued, the amount due for arrears, interest and costs of attachment if any, and the date at which the arrear fell due, and shall further set forth that unless the amount is paid in twenty-four hours the defaulter will be lodged in Jail.

Warrant.

47. If the defaulter demand to be taken before the functionary who issued the warrant he shall be so taken, and if he there deny the existence or amount of arrears, or his liability to discharge the same, such functionary shall proceed at once to investigate the matter, and shall suspend execution of the warrant pending judgment, upon security being given for the appearance of the defaulter when required, and for the costs occasioned by the denial; provided always, that when he may see reason to think that the statement upon which the warrant was obtained was untrue, he may suspend execution without requiring security.

Procedure when arrears are disputed.

Stay of execution.

48. No person shall be imprisoned as a defaulter for a longer period than two years whatever the amount of arrears may be; nor for a longer period than six months, if the arrears do not exceed Rupees 500; nor for a longer period than three months if the arrears do not exceed Rupees 50: provided that such imprisonment shall not extinguish the debt due by the defaulter. The person procuring the arrest shall pay to the defaulter, whilst in confinement, subsistence money at the established rates, and upon default of such payment the prisoner shall be entitled to his release.

Period of imprisonment, and rate of subsistence.

49. Any person deeming himself aggrieved by any proceedings taken under color of this Act shall be at liberty to seek redress by filing a summary suit for damages before the Collector.

Summary suit where Act is wrongfully enforced.

50. Suits under this Act shall be instituted by presenting to the Collector a plaint, which shall contain the name, description, and place of abode of the Plaintiff—the name, description, and place of abode of the Defendant, so far as they can be ascertained, the nature and amount of the claim, or the relief sought, and the date of the

Procedure. Plaint.

cause of action. Any documents which the Plaintiff wishes to produce in support of his claim shall accompany the plaint and none shall be received afterwards, unless the Collector shall see cause to admit them. Irregular or incomplete plaints may be returned to the party, or the Collector may, at his discretion, allow them to be amended.

Documents to be produced.

Limitation of Summary Suits.

51. Summary suits under this Act must be brought within thirty days from the date of the cause of action.

Agents may be employed.

52. Plaintiffs and Defendants shall be allowed to employ a relative, a servant or other authorized agent, to act in their behalf in suits brought before Collectors under this Act.

Summons to Defendant.

53. If the plaint shows that the suit has been brought within the time of limitation and is cognizable by the Collector, a day shall be announced for its trial and a written summons shall be addressed to the Defendant, containing the name of the Plaintiff, and stating concisely the nature and amount of the claim, the position of the land or premises in respect to which the suit is brought, and the amount of damages sought, if any. The costs of issuing and serving the summons shall be endorsed thereon, and the amount shall be deposited by the Plaintiff, unless the Collector allows its issue free of cost. The summons shall require the Defendant to appear at the Collector's Office on the day fixed, bringing with him, subject to all just exceptions, any documents which the Plaintiff may desire to inspect and all documents which the Defendant may wish to produce in his defence, as well as his witnesses, should they be willing to appear without issue of process. The Defendant shall not be allowed to produce any documents except at the first hearing of the suit, unless he shall show cause to the Collector's satisfaction for their admission afterwards.

Documents to be produced at first hearing.

54. If the Plaintiff require the personal attendance of the Defendant and satisfy the Collector that such personal attendance is necessary, or if the Collector, of his own accord, require such personal attendance, the summons shall be issued accordingly, unless such person be of the female sex and of a rank or class which renders it unsuitable for her to appear in public. Otherwise it shall require the Defendant to appear either personally, or by his authorized agent.

When Defendant may be required to appear in person.

55. The summons shall be served by delivering a copy of it to the Defendant personally when practicable, or if the summons cannot be served on the defendant personally, or on some adult male member of his family, or on his authorized agent, then by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Service of Summons.

56. The Collector shall be authorized, at any time during the suit, to summon the Plaintiff to appear personally for examination, should he see cause to do so, and to dismiss the suit with costs should the Plaintiff fail to attend accordingly.

Personal Attendance of Plaintiff.

57. If on the day fixed for the trial of the suit, or on any subsequent day to which the hearing of the case may be adjourned, neither of the parties appear in person or by an authorized agent, the suit shall be dismissed. If the Defendant only appears, the Collector shall pass judgment against the Plaintiff by default, unless the Defendant admit the cause of action, in which case the Collector shall give judgment upon such admission without costs; provided that such judgment, if there be more than one Defendant, shall be only against the Defendant who makes the admission. If the Plaintiff only appear, the Collector, upon proof that the summons was duly served, shall proceed to examine the Plaintiff and his evidence, and may pass judgment *ex parte* for or against the Defendant.

Default by both parties.

By Plaintiff.

Effect of admission by Defendant.

Default by Defendant.

58. No appeal shall lie from a judgment passed *ex parte* against a Defendant who has not appeared, or from a judgment against a Plaintiff by default for non-appearance. But in all such cases if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a Defendant within fifteen days after the judgment has been executed, or at any earlier period, shall show good and sufficient cause for his previous non-appearance and shall

No appeal where judgment on default or *ex parte*.

Suit may be revived.

process for enforcing the judgment.

satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

59. It shall be lawful for the Defendant, at any time before the day fixed for the hearing, to acknowledge the justice of the claim and to pay into the Collector's Court, or into the hands of the Plaintiff, or his authorized agent, the amount sued for and the costs of the summons, and thereupon all proceedings shall be stayed and a judgment passed in favor of the plaintiff. It shall also be lawful for the Defendant to acknowledge such part of the Plaintiff's claim as he shall think fit, or to pay, as aforesaid, so much of the money claimed as he admits to be due, and if the Plaintiff persists in the suit and fails to recover more than the amount so paid or acknowledged he shall pay all subsequent costs.

60. Collectors, exercising judicial functions under this Act, shall have the same powers, as to compelling the production of documents and enforcing the attendance of witnesses and punishing those who fail to appear or to give evidence, as are possessed by Civil Judges.

61. The parties shall bring forward their witnesses at the time of trial, and if either party require assistance to procure the attendance of a witness either to give evidence or produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day, and the Collector shall issue a summons requiring such witness to attend.

62. Every process issued by the Collector during the trial of a summary suit shall be under his seal and signature, and shall be served or executed by such person as he may appoint at the cost of the party at whose instance it is issued. The amount of such cost, and any sum which may be required for the travelling expenses of a witness shall be deposited in the Collector's Court before the process is issued. Provided that in any case where the Collector may see cause, he may direct such process to be served free of charge.

63. In the hearing of the suit, the examination of the parties or their authorized agents, and of the witnesses for the plaintiff and the defence, shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses. The evidence of the witnesses shall be taken down in the form of a narrative in the vernacular language of the District, or in English, and be signed by the Collector after being read over and being explained, if necessary, to the witness. It shall be lawful for the Collector to call for any additional evidence or documents and to summon any additional witnesses necessary to elucidate the case.

64. The record of the suit shall comprise the plaint, such summonses as may have been issued or copies of them, the examination of the Plaintiff or his authorized agent, the statement taken from the Defendant or his authorized agent, or any written statement which the Defendant may have filed, the evidence of the witnesses, and a list of the documents filed. Such documents, when retained by the Collector, shall be included in the record.

65. Proceedings of Collectors under this Act, shall be summary, and if, on the presentation of the plaint, the Defendant be present, it shall be lawful for the Collector to proceed at once with the investigation of the suit.

66. The Collector may, in any case, grant time to the Plaintiff or Defendant to proceed in the prosecution or defence of a suit, and may also, for any sufficient reason to be recorded by the Collector, adjourn the hearing in such manner as to him may seem fit.

67. The Collector may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him. Such report, with the evidence and documents upon which it is founded, shall form a part of the record of the suit and shall be considered by the Collector in passing his judgment.

68. On the hearing of the case being completed, the Collector shall pronounce judgment. The judgment shall be written by the Collector in English, and shall contain the reasons for the same and shall be dated and signed by the Collector at the time when it is pronounced. A copy of the Collector's judgment, and a translation thereof in the vernacular language of the District, shall be given to each of the parties, on application, free of charge.

69. A regular appeal shall lie to the Zillah Judge, from all judgments passed by a Collector under this Act; provided that the appeal be presented to the Zillah Court within thirty days from the date of the Collector's judgment. But no judgments of a Collector under this Act shall be set aside for want of form, or for irregularity in procedure; but upon the merits only.

70. The Collector may at once issue his Warrant for executing his judgment, provided that no damages, penalties or costs which may have been awarded shall be levied, nor shall any tenant be ejected under the provisions of this Act, until the expiration of the thirty days allowed for an appeal. Provided also, that process of execution shall not be issued simultaneously against both the person and property of a judgment debtor. All awards under the judgment of a Collector shall be leviable in the same way as arrears of revenue.

71. When a judgment is given for the delivery of a Puttah, if the person required by the decree to grant such Puttah refuse or delay to grant the same, the Collector may grant a Puttah under his own hand and seal, in conformity with the terms of the judgment, and such Puttah shall be of the same force and effect as if granted by the person aforesaid.

72. When a judgment is given for the delivery of a Muchilka, if the person required by the decree to execute such Muchilka shall refuse to execute the same, the judgment shall be evidence of the amount of rent claimable from such person, and a copy of the judgment under the hand and seal of the Collector shall be of the same force and effect as a Muchilka executed by the said person.

73. If the judgment be for the ejectment of a tenant or for the re-instatement of any tenant in the occupancy of land from which he has been ejected, the judgment shall be executed by giving the possession or occupancy of the land to the person entitled by the judgment to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, or by others, the Magistrate shall, on application, give effect to the same.

74. The provisions of Chapter VI (relative to arbitration) of the Code of Civil Procedure shall apply to summary suits preferred to Collectors under this Act. When a Collector refers a suit to arbitration under this Section, he shall be empowered to execute the decision of the arbitrator or arbitrators as if it had been passed by himself.

75. Summary suits brought before Collectors under this Act shall be exempt from Stamp duties.

76. In Proceedings under this Act no judgment of a Collector, and no order passed by him after decree and relating to execution thereof, shall be open to revision otherwise than by appeal to the Zillah Court, except as allowed in Section 58.

77. Every Collector shall keep a Register, in the following form, of the summary suits heard and decided by him:—

No. of suit.	Date of plaint.	Abstract of plaint.	Abstract of defence.	Date and Abstract of judgment.

78. Nothing in this Act contained shall be construed to debar any person from proceeding in the ordinary tribunals to recover money paid, or to obtain damages in respect of any thing professedly done under the authority of this Act, provided, that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action unless such suit shall be instituted, within six months from the time at which the cause of action arose.

All ordinary rights of action saved.

Limitation of time.

Provided-also, that no action shall lie against any revenue authority for issuing such warrants as are mentioned in Sections 41, and 45, where the necessary statement has previously been made, even though such statement should prove to be false; nor in any case against a Police Officer who executes any warrant, or assists in any process permitted by this Act, when directed to do so by an authority whom he is bound to obey.

Protection to Revenue or Police Officers.

79. Landholders are authorized to delegate to their agents, or assignees, all the powers given to them by this Act, and any persons injured by such agents, or assignees, shall be allowed to sue either them, or their principal, or both; provided always, that the principal shall in no case be liable to imprisonment, nor to any greater damages than the plaintiff has actually suffered, where the act complained of was committed by his agent or assignee and was not sanctioned by him.

Landholders may delegate their powers under this Act.

80. The heirs or legal representatives of persons who are authorized by this Act to proceed summarily for arrears of rent shall have the same authority to institute or continue such proceedings as was possessed by those whom they represent, whether the arrears in question accrued while they were legally entitled to the land or previously; and notice shall be given to the Collector, or other Officer empowered in that behalf, of the first step taken by them under this Section.

Heirs may proceed for arrears.

81. Tenants shall be entitled to receipts from landholders for all discharges made in money or in kind; and where they may have paid the whole rent, they shall be entitled to receipts in full. Persons to whom receipts are refused may, on proving such refusal in a summary suit before the Collector, recover damages not exceeding twice the sum paid with costs.

Refusal to grant receipts.

82. On an application being received from any landholder, the Collector, or Officer empowered by the Collector in that behalf, shall be authorized, provided he sees due cause for such a measure, to order the tenant to furnish security for the amount payable by him before he cuts and removes the crops or produce; and if the tenant fails to furnish such security, the Collector, or Officer empowered by the Collector in that behalf, shall be authorised to make over to the applicant such a portion of the crops or produce as is equal to the amount of his demand.

Collector may order tenant to furnish security.

83. When any landholder who is entitled to receive a portion of the crop as rent complains that the crop was cut without his knowledge or presence, and that the portion tendered to or left for him is insufficient, it shall be lawful for the Collector, on a summary suit being filed, to investigate the case and pass a judgment directing the tenant to pay to him such an additional quantity of grain or produce, or its equivalent value, as may appear equitable. Such an award shall not bar or affect any penalty or punishment to which the tenant may have made himself subject under the provisions of Chapter 17, of the Indian Penal Code, for cutting the crop without the landlord's knowledge and assent.

Clandestine removal of crop.

84. Landholders shall be empowered to proceed under this Act against a tenant, or his security, or against both, so nevertheless that no more than the total sum in arrears and interest with costs and charges shall be realised from both.

Landholder may proceed against tenant, or his security, or both.

85. Managers of estates of disqualified landholders, and Public Officers holding lands in attachment for arrears of Government Revenue, or under the order of a Civil Court, shall have authority to proceed against tenants for arrears of rent in the same manner as the landholders, to whom the estates or lands under their charge belong, might themselves have proceeded under the provisions of this Act, and may exercise all the powers conferred by this Act on landholders, and shall be subject to the same restrictions so long as the estates and lands remain under their management.

Powers of Managers of Estates and Officers holding under attachment.

ons of this Act, and may exercise all the powers conferred by this Act on landholders, and shall be subject to the same restrictions so long as the estates and lands remain under their management.

86. All farmers of public revenue are authorized to proceed against their sub-renters for arrears of rent under the provisions of this Act, if they shall have taken written engagements from such sub-renters specifying the amount of rent to be paid by them.

Farmers of public revenue may proceed under this Act against sub-renters where be written engagements.

87. Except as hereinbefore provided to the contrary landholders and others shall be at liberty to file suits in the Civil Courts for arrears of rent or revenue due to them, when they may see fit to do so. But in the decision of suits regarding rates of rent, the Courts shall be guided by the provisions of this Act.

Act not to prevent landholders or others from filing suits in Civil Courts for arrears of rent or revenue.

88. Nothing in this Act shall apply to the collection of rent or revenue within the limits of the Town of Madras as defined by Section 12, Regulation II of 1802, of the Madras Code.

Scope of the Act.

89. The following Regulations are hereby repealed except in so far as they rescind other Acts and Regulations or parts of other Acts and Regulations, and except as to any proceedings or matters which shall have taken place before this Act comes into force:

Regulations repealed.

Regulation 28 of 1802.

" 30 of 1802.

" 2 of 1806, Sections 4 & 6.

" 5 of 1822.

" 1 of 1826.

90. This Act shall take effect from such date as the Government of Fort Saint George, shall fix by an order to be published in the Official Gazette.

Date at which Act is to come into operation.

(By Order.)

THOMAS M. BUSTEED,
Acting Assistant Secretary to Government,
Legislative Department.

James 1st January 1882

A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1866.

Madras:

PRINTED BY H. MORGAN, AT THE GOVERNMENT GAZETTE PRESS.

1867.

TITLES
OF
**ACTS PASSED BY THE GOVERNOR-GENERAL
OF INDIA IN COUNCIL,**
IN THE YEAR 1866.

ACT No.	I.	An Act to amend Act No. XIX of 1861 (to provide for a Government Paper Currency).
—	II.	to amend Act No. II of 1865.
—	III.	to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.
—	IV.	to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.
—	V.	to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.
—	VI.	to continue Act No. XXXI of 1860 (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) and for other purposes.
—	VII.	to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca Act No. XXIII of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil).
—	VIII.	further to amend the Schedule annexed to the Code of Criminal Procedure.
—	IX.	to extend to the Sadder Court of the North-Western Provinces certain provisions of "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865.
—	X.	for the incorporation, regulation, and winding-up of Trading Companies and other Associations.
—	XI.	to repeal Act No. IV of 1855 (for incorporating for a further period, and for giving further powers to the Assam Company).
—	XII.	to provide for the compulsory taking of rights to form and maintain private water-courses for public works of irrigation.
—	XIII.	to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.
—	XIV.	to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.
—	XV.	to amend the Law of Partnership in India.
—	XVI.	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.
—	XVII.	to provide for the establishment of a Public Museum at Calcutta.
—	XVIII.	to alter the Customs duty on the export of Saltpetre.
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ACT No. VI 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 to continue Act No. XXXI of 1860 (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) and for other purposes.

Whereas Act No. XXXI of 1860 as continued by Act No. VI of 1865 will expire on the first day of October 1866 ; and whereas it is expedient to continue the said Act No. XXXI of 1860 with such modifications as are hereinafter mentioned ; and whereas it is desirable to render the license mentioned in the 26th and other Sections of the same Act grantable upon conditions, and to enable the local Governments to exempt classes of persons, Districts and parts of Districts from the operation of Sections 25 and 26 of the same Act ; It is enacted as follows :—

1. Act No. VI of 1865 and the second Clause of Section 55 of Act No. XXXI of 1860 are hereby repealed; but the rest of the Act last hereinbefore mentioned shall, subject to the modifications hereinafter mentioned, continue in force from the passing of this Act until the Governor-General of India in Council shall by an order published in the Gazette of India declare otherwise.

Repeal of Act No. VI of 1865 and of part of Section 55 of Act No. XXXI of 1860. Rest of Act No. XXXI of 1860 continued.

2. The license mentioned in Sections 26, 28, 29 and 30 of the said Act No. XXXI of 1860 may be granted by the Magistrate or other person specially authorized to grant the same, subject to such condition or conditions, if any, as such Magistrate or other

Licenses to bear arms may be granted on conditions.

person

person shall think fit ; and on breach of any such condition, or failure to comply therewith, such license shall thereupon be null and void.

3. For the last Clause of Section 27 of the same Act, the following words shall be substituted (that is to say), " Such other persons, classes of persons, Districts or parts of Districts as the Local Government may by notification in the Official Gazette from time to time exempt from such provisions."

Amendment of Section
27 of Act No. XXXI of
1860.

Short Title.

4. This Act may be cited as " The Arms' Act Continuance Act, 1866."

ACT NO. VII 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 to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, Act No. XXIII of 1840 (for executing within the local limits of jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil.)

Whereas it is expedient to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, the provisions of Act No. XXIII of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil) ; It is enacted as follows :—

Preamble.

1. The said Act No. XXIII of 1840 shall be read as if the words " Supreme Courts of Calcutta, Madras and Bombay" included the Court of Judicature of Prince of Wales' Island, Singapore and Malacca : Provided that no writ, warrant or other process shall be endorsed under the said Act by such Court so as to compel the attendance beyond the limits of its jurisdiction of any person living within such limits, unless special grounds be proved to the satisfaction of the Judge of such Court to whom such endorsement shall be applied for in support of the application, which grounds shall be recorded in the endorsement of the writ, warrant or other process.

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Proviso.

2. Any

2. Any summons or other process issued to commence a suit by any High Court, may be served within the local jurisdiction of the said Court of Judicature of Prince of Wales' Island, Singapore and Malacca, if endorsed for service by a Judge of such Court of Judicature as hereinafter provided, and any summons or other process issued to commence a suit or action by the same Court of Judicature may be served within the local jurisdiction of any High Court, if endorsed for service by a Judge of such High Court as hereinafter provided. The summons or other process intended for service shall be accompanied by a certificate annexed thereto, signed by a Judge of the Court from which the same is issued, stating some special cause why such summons or other process should be served within the jurisdiction of the High Court or Court of Judicature, as the case may be, and application shall be made to a Judge of such Court, on production of such summons or other process, and of such certificate, prior to such service thereof. On such application being made, it shall be in the discretion of such Judge to require proof by affidavit or otherwise that it is proper to allow such service, and on hearing such proof such Judge shall either endorse the summons or other process for service, or shall endorse thereon the reason for not ordering the service thereof. If such summons or other process be not endorsed for service as aforesaid it shall not be served under this Act. When endorsed for service it shall be served in the same manner as if it had originally issued out of the Court in which such endorsement is made.

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THE INDIAN COMPANIES' ACT, 1866.

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ACT N^o. X OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

An Act for the incorporation, regulation, and winding-up of Trading Companies and other Associations.

Preamble. Whereas it is expedient that the laws relating to the incorporation, regulation, and winding-up of Trading Companies and other associations should be consolidated and amended ; It is enacted as follows :—

Preliminary.

Short Title. 1. This Act may be cited for all purposes as “ The Indian Companies’ Act, 1866.”

Commencement of Act. 2. This Act shall come into operation on the first day of May 1866, and the time at which it so comes into operation is hereinafter referred to as the commencement of this Act.

Interpretation clause. 3. In this Act, unless there be something repugnant in the subject or context :—

“ British

"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, entitled "An Act for the better Government of India :"

"Year" and "month" respectively denote a year and month reckoned according to the British calendar :

An "Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses :

"Court" means the principal Civil Court of original jurisdiction in a District, and includes the High Court in the exercise of its ordinary original Civil jurisdiction :

"District Court" means the principal Civil Court of original jurisdiction in a District, but does not include the High Court in the exercise of its ordinary original Civil jurisdiction :

And, in any part of British India in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such part and includes a Chief Commissioner ; and "High Court" denotes the highest Civil Court of appeal therein.

4. No Company, Association or Partnership consisting of more than ten persons shall be formed, after the commencement of this Act, for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General of India in Council, or by Royal Charter or Letters Patent ; and no Company, Association or Partnership consisting of more than twenty persons shall be formed, after the commencement of this Act, for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

5. This Act is divided into nine Parts, relating to the following subject-matters :—

The first Part—to the constitution and incorporation of Companies and Associations under this Act :

The

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act :

The third Part—to the management and administration of Companies and Associations under this Act :

The fourth Part—to the winding-up of Companies and Associations under this Act :

The fifth Part—to the Registration Office :

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other associations either with or without limited liability of the members thereof*) and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them :

The seventh Part—to Companies authorized to register under this Act :

The eighth Part—to the application of this Act to unregistered Companies :

The ninth Part—to repeal of Acts.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisition of this Act in respect of registration, form an incorporated Company, with or without limited liability.

7. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

8. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things ; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name :

(2.) The

(2.) The part of British India in which the registered Office of the Company is proposed to be situate :

(3.) The objects for which the proposed Company is to be established :

(4.) A declaration that the liability of the members is limited :

(5.) The amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount,

Subject to the following regulations :

(1.) That no subscriber shall take less than one share.

(2.) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

9. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up, hereinafter referred to as a Company limited by guarantee, the memorandum of association shall contain the following things, (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name :

(2.) The part of British India in which the registered Office of the Company is proposed to be situate :

(3.) The objects for which the proposed Company is to be established :

(4.) A declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges, and expenses of winding up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members, hereinafter referred to as an Unlimited Company, the memorandum of association shall contain the following things, (that is to say)—

(1.) The name of the proposed Company :

(2.) The part of British India in which the registered Office of the Company is proposed to be situate :

(3.) The objects for which the proposed Company is to be established.

11. The

11. The Memorandum of association shall bear the same stamp as if it were a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained on the part of himself, his heirs, executors and administrators, a covenant to observe all the conditions of such memorandum, subject to the provisions of this Act.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by Special Resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid-up shares into stock, but, save as aforesaid, and save as hereinafter provided in the case of a change of name, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

13. Any Company under this Act, with the sanction of a Special Resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case ; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company ; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Articles of Association.

14. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by Articles of Association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient. The Articles shall

shall be expressed in separate paragraphs, numbered arithmotically : They may adopt all or any of the provisions contained in the Table marked A in the first Schedule hereto : They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered ; and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

15. In the case of a Company limited by shares, if the memorandum of association is not accompanied by Articles of Association, or, in so far as the Articles do not exclude or modify the regulations contained in the Table marked A in the first Schedule hereto, the last mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company in the same manner and to the same extent as if they had been inserted in Articles of Association and the Articles had been duly registered.

16. The Articles of Association shall be printed, they shall bear the same stamp as if they were contained in a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in such Articles contained a covenant on the part of himself, his heirs, executors and administrators, to conform to all the regulations contained in such Articles, subject to the provisions of this Act. All monies payable by any member to the Company, in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provision.

17. The memorandum of association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies hereinafter mentioned, who shall retain and register the same. There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the

Registration of memorandum of association and Articles of Association with fees as in Table B.

Table

Table marked B in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the Table marked C in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council, may from time to time direct. All fees paid to the said Registrar in pursuance of this Act shall be accounted for to Government.

18. Upon the registration of the memorandum of association and of the Articles of Association in cases where Articles of Association are required by this Act, or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a Limited Company that the Company is limited. The subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a Body Corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company in the event of the same being wound up as is hereinafter mentioned. A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

19. A copy of the memorandum of association having annexed thereto the Articles of Association, if any, shall be forwarded to every member at his request, on payment of the sum of one rupee, or such less sum as may be prescribed by the Company for each copy ; and if any Company makes default in forwarding a copy of the memorandum of association and Articles of Association, if any, to a member in pursuance of this Section, the Company so making default shall for each offence incur a penalty not exceeding twenty rupees.

Copies of memorandum and articles to be given to members.

20. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires. If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly

Prohibition against identity of names in Company.

nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case ; but no such alteration of name shall effect any rights of obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

21. The shares or other interest of any member in a Company under this Act shall be moveable property capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property ; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

22. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration or the Company shall be entered as members on the Register of Members hereinafter mentioned ; and every other person who has agreed to become a member of a Company under this Act, and whose name is entered on the Register of Members, shall be deemed to be a member of the Company.

23. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

24. Every

24. Every Company under this Act shall cause to be kept in one or more books a Register of its members, and there shall be entered therein the following particulars :—

(1.) The names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number ; and of the amount paid or agreed to be considered as paid on the shares of each member :

(2.) The date at which the name of any person was entered in the register as a member :

(3.) The date at which any person ceased to be a member.

Any Company acting in contravention of this Section shall incur a penalty not exceeding fifty Rupees for every day during which its default in complying with the provisions of this Section continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such contravention shall incur the like penalty.

25. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the Ordinary General Meeting, or if there is more than one Ordinary Meeting in each year the first of such Ordinary General Meetings is held, are members of the Company. Such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars :—

(1.) The amount of the capital of the Company and the number of shares into which it is divided :

(2.) The number of shares taken from the commencement of the Company up to the date of the summary :

(3.) The amount of calls made on each share :

(4.) The total amount of calls received :

(5.) The total amount of calls unpaid :

(6.) The total amount of shares forfeited :

(7.) The names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The

The above list and summary shall be contained in a separate part of the Register, and shall be completed within seven days after such fourteenth day as is mentioned in this Section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company, &c., not keeping a proper Register.
 26. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty Rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Company to give notice of consolidation or of conversion of capital into stock.
 27. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall within fifteen days of such consolidation, division or conversion, give notice to the Registrar of Joint Stock Companies of the same, specifying the shares so consolidated, divided or converted.

Effect of conversion of shares into stock.
 28. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock, and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the Register of Members hereby required to be kept by the Company, and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required.

Entry of Trusts on Register.
 29. No notice of any trust, express, implied or constructive, shall be entered on the Register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of shares or stock.
 30. A certificate under the common seal of the Company, specifying any share or shares or stock held by any member of a Company, shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified.

31. The

Inspection of Register.
 31. The Register of Members, commencing from the date of the registration of the Company, shall be kept at the registered Office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall during business hours, but subject to such reasonable restrictions as the Company in General Meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee or such less sum as the Company may prescribe for each inspection. Every such member or other person may require a copy of such Register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied. If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues. Every Director and Manager of the Company who shall knowingly authorize or permit such refusal shall incur the like penalty. In addition to the above penalty, any Judge of a High Court may by order compel an immediate inspection of the Register.

Power to close Register.
 32. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating the District in which the registered Office of the Company is situated, close the Register of Members for any time or times not exceeding in the whole thirty days in each year.

Notice of increase of capital and of members to be given to Registrar.
 33. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and, where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital within fifteen days from the date of the passing of the Resolution by which such increase has been authorized, and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place, and the Registrar shall forthwith record the amount of such increase of capital or members. If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues, and every Director and Manager of the Company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

34. If

34. If the name of any person is without sufficient cause entered in, or omitted from, the Register of Members of any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the Register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original Civil jurisdiction in the district or place in which the registered Office of the Company is situate, apply for an order of the Court that the Register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the Register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained. The Court may in any proceeding under this Section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the Register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the Register; provided that the Court may direct an issue to be tried in which any question of law may be raised, and an appeal in the manner directed by the Code of Civil Procedure shall lie.

35. Whenever any order has been made for rectifying the Register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

36. The Register of Members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

37. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges and expenses of the winding-up, and for the payment of such sums as may be

be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following; (that is to say)—

(1.) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(2.) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(3.) No past member shall be liable to contribute to the assets of the Company, unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(4.) In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(5.) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association:

(6.) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract:

(7.) No sum due to any member of a Company in his character of a member by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT. *Provisions for Protection of Creditors.*

38. Every Company under this Act shall have a registered Office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an Office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

39. Notice

39. Notice of the situation of such registered Office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered Office.

Notice of situation of registered Office.

40. Every Limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every Office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language, and also, if the registered Office be situate in a district beyond the local limits of the ordinary original Civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all Bills of Exchange, Hundis, Promissory Notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

Publication of name by a Limited Company.

41. If any Limited Company under this Act does not paint or affix and keep painted or affixed its name, in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed. Every Director and Manager of the Company who shall knowingly and wilfully authorise or permit such default shall be liable to the like penalty. If any Director, Manager or Officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company, any Bill of Exchange, Hundi, Promissory Note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hundi, Promissory Note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

Penalties on non-publication of name.

42. Contracts

42. Contracts on behalf of any Company registered under this Act may be made as follows; (that is to say)—

Contracts how made.

(1.) Any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company, and such contract may be in the same manner varied or discharged:

(2.) Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company, and such contract may in the same manner be varied or discharged:

(3.) Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company, and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

43. Every Limited Company under this Act shall keep a Register of all mortgages and charges specifically affecting property of the Company, and shall enter in such Register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created and the names of the mortgagees or persons entitled to such charge. If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every Director, Manager or other Officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees. The Register of mortgages required by this Section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any Officer of the Company refusing the same, and every Director and Manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees and a further penalty not exceeding twenty rupees for every day during which such refusal continues. In addition to the above penalty any Judge of the High Court may by order compel an immediate inspection of the Register.

Register of mortgages.

44. Every

44. Every Limited Banking Company and every Insurance Company, and Deposit, Provident or Benefit Society under this Act shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first Schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put up in a conspicuous place in the registered Office of the Company and in every branch Office or place where the business of the Company is carried on. If default is made in compliance with the provisions of this Section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this Section shall be entitled to a copy of the abovementioned statement on payment of a sum not exceeding eight annas.

45. Every Company under this Act and not having a capital divided into shares shall keep at its registered Office a Register containing the names and addresses and the occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a copy of such Register, and shall from time to time notify to the Registrar any change that takes place in such Directors or Managers.

46. If any Company under this Act and not having a capital divided into shares makes default in keeping a Register of its Directors or Managers, or in sending a copy of such Register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such Directors or Managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

47. A Promissory Note, Bill of Exchange or Hund shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company, by any person acting under the authority of the Company.

Certain Companies to publish statement entered in Schedule.

List of Directors to be sent to Registrar.

Penalty on Company not keeping Register of Directors.

Promissory Notes, Bills of Exchange and Hundis.

48. If any Company under this Act carries on business when the number of its members is less than seven for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time and may be sued for the same without the joinder in the suit of any other member.

49. A General Meeting of every Company under this Act shall be held once at the least in every year. A balance-sheet shall be made out in every year, and laid before the Company in General Meeting and filed with the Registrar of Joint Stock Companies, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first Schedule hereto, or as near thereto as circumstances admit. And once at the least in every year the accounts of the Company shall be examined and the correctness of the balance-sheet ascertained by one or more auditor or auditors. If default is made in compliance with any of the provisions of this Section, every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to a penalty of one thousand rupees.

50. Subject to the provisions of this Act, and to the conditions contained in the memorandum of association, any Company formed under this Act may, in General Meeting, from time to time, by passing a Special Resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the Articles of Association, or in the Table marked A in the first Schedule where such Table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company. Any regulations so made by Special Resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the Articles of Association, and shall be subject in like manner to be altered or modified by any subsequent Special Resolution.

51. A Resolution passed by a Company under this Act shall be deemed to be special, whenever a Resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations

Prohibition against carrying on business with less than seven members.

General Meeting of Company.

Balance-sheet.

Audit.

Power to alter regulations by special Resolution.

Definition of Special Resolution.

regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any General Meeting of which notice specifying the intention to propose such Resolution has been duly given, and such Resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent General Meeting of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such Resolution was first passed. At any meeting mentioned in this Section, unless a poll is demanded by at least five members, a declaration of the Chairman that the Resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this Section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company. In computing the majority under this Section, when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

52. In default of any regulations as to voting every member shall have one vote, and in default of any regulations as to summoning General Meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the Table marked A in the first Schedule hereto. In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and in default of any regulations as to who is to be Chairman of such meeting, it shall be competent for any person elected by the members present to preside.

53. A copy of every Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the Resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

54. Where

54. Where Articles of Association have been registered, a copy of every Special Resolution for the time being in force shall be annexed to or embodied in every copy of the Articles of Association that may be issued after the passing of such Resolution. Where no Articles of Association have been registered, a copy of every Special Resolution shall be forwarded in print to any member requesting the same, on payment of one rupee or such less sum as the Company may direct. If any Company makes default in complying with the provisions of this Section, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

55. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its Attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such Attorney on behalf of the Company and under his seal, shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

56. The Local Government may appoint one or more competent Inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following; (that is to say)—

(1.) In the case of a Banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(2.) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the Register of the Company as members.

57. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any Inspector or Inspectors.

58. It

58. It shall be the duty of all Officers and Agents of the Company to produce for the examination of the Inspectors all books and documents in their custody or power. Any Inspector may examine upon oath or affirmation the Officers and Agents of the Company in relation to its business, and may administer such oath or affirmation accordingly. If any such Officer or Agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each offence.

59. Upon the conclusion of the examination, the Inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs. A copy shall be forwarded by the Local Government to the registered Office of the Company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the Inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

60. Any Company under this Act may by a Special Resolution appoint Inspectors for the purpose of examining into the affairs of the Company. The Inspectors so appointed shall have the same powers and perform the same duties as Inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in General Meeting directs. The Officers and Agents of the Company shall incur the same penalties, in case of any refusal to produce any book or document hereby required to be produced to such Inspectors or to answer any question, as they would have incurred if such Inspectors had been appointed by the Local Government.

61. A copy of the report of any Inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the Inspectors in relation to any matter contained in such report.

62. Any

Notices.

62. Any summons, notice, order or other document required to be served upon the Company, may be served by leaving the same, or sending it through the Post by a registered letter addressed to the Company, at their registered Office; and any notice to the Registrar of Joint Stock Companies may be served by sending it to him through the Post by a registered letter, or by delivering it to him, or by leaving it for him at his Office.

63. Every document to be served by Post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the Post Office.

64. Any summons, notices order or proceeding requiring authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the common seal of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

65. Every Company under this Act shall cause minutes of all Resolutions and proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in cases where there are Directors or Managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the Chairman of the meeting at which such Resolutions were passed or proceedings had, or by the Chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings. Until the contrary is proved, every General Meeting of the Company or meeting of Directors or Managers in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all Resolutions passed thereat or proceedings had, to have been duly passed and had, and all appointments of Directors, Managers, or Liquidators shall be deemed to be valid, and all acts done by such Directors, Managers or Liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

66. Where

66. Where a Limited Company is plaintiff in any suit, any Judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Provision as to costs in suits brought by certain Limited Companies.

67. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Plaint in suits against member.

Alteration of Forms.

68. The forms set forth in the second Schedule hereto, or forms as near there to as circumstances admit, shall be used in all matters to which such forms refer. The Governor-General of India in Council may from time to time make such alterations in the Tables and forms contained in the first Schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said Schedule mentioned, and in the forms in the second Schedule, or make such additions to the last mentioned forms, as he deems requisite. Any such Table or form, when altered, shall be published in the Gazette of India, and upon such publication being made, such Table or form shall have the same force as if it were included in the Schedule to this Act, but no alteration made by the Governor-General of India in Council in the Table marked A contained in the First Schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such Table.

Governor-General in Council may alter forms in Schedule.

Arbitrations.

69. Any Company under this Act may from time to time, by writing under its common seal, agree to refer and may refer to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies parties to the arbitration may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing body of such Companies.

Power for Companies to refer matters to arbitration.

70. The

70. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

Power to alter or revoke agreements for reference.

71. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

Agreements to be carried into effect.

72. Where the Companies agree, the reference shall be made to a single Arbitrator.

Reference to Arbitrator.

73. Except where the Companies agree that the reference shall be made to a single Arbitrator, the reference shall be made as follows; to wit—

Reference to two or more Arbitrators.

Where there are two Companies, the reference shall be made to two Arbitrators:

Where there are three or more Companies, the reference shall be made to so many Arbitrators as there are Companies.

74. Where there are to be two or more Arbitrators, every Company shall by writing under their common seal appoint one of the Arbitrators, and shall give notice in writing thereof to the other Company or Companies.

Appointment of Arbitrators by Companies.

75. Where there are to be two or more Arbitrators, if any of the Companies fail to appoint an Arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or of any them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an Arbitrator, may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrators by Local Government.

76. When the reference is made to two or more Arbitrators, if before the matters referred to them are determined any Arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an Arbitrator in his place.

Appointment of Arbitrators by Companies to supply vacancies.

77. Where

77. Where the Company by which an Arbitrator ought to be appointed in the place of the Arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

78. When any appointment of an Arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

79. Where two or more Arbitrators are appointed, they shall, before entering on the business the reference, appoint by writing under their hands an impartial and qualified person to be their Umpire.

80. If the Arbitrators do not appoint an Umpire within seven days after the reference is made to the Arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire; and the Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators.

81. Where two or more Arbitrators are appointed, if before the matters referred to them are determined their Umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Umpire, the Arbitrators shall by writing under their hands appoint an impartial and qualified person to be their Umpire in his place.

82. If the Arbitrators fail to appoint an Umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their Umpire, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire. The Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators so failing.

83. Every Arbitrator appointed in the place of a preceding Arbitrator, and every Umpire appointed in the place of a preceding Umpire, shall respectively have the like powers and authorities as his respective predecessor.

84. Where

84. Where there are two or more Arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the Arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their Umpire.

85. The Arbitrator, and the Arbitrators, and the Umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the Arbitrator, or the Arbitrators, or the Umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath or affirmation, and may administer the requisite oath or affirmation.

86. Except where and as the Companies otherwise agree, the Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

87. The Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the Arbitrator, or the Arbitrators, or the Umpire shall think fit so to proceed.

88. The Arbitrator, and the Arbitrators, and the Umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred. Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the Arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

89. The award of the Arbitrator, or of the Arbitrators, or of the Umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within

within thirty days next after the matters in difference are referred to (as the case may be) the Arbitrator, or the Arbitrators, or the Umpire, shall be binding and conclusive on all the Companies.

90. Provided always that (except where and as the Companies otherwise agree) the Umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Power for Umpire to extend period for making his award.

91. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Awards not to be set aside for informality.

92. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered, shall be done, omitted or suffered accordingly.

Awards to be obeyed.

93. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Agreements, arbitrations and awards to have effect.

94. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the Arbitrator, and the Arbitrators, and the Umpire respectively.

Costs of arbitration and award.

95. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Payment of costs.

96. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure

Submission to arbitration to be filed in Court.

cedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

97. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Meaning of contributory.

98. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful in the case of the insolvency of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

Nature of liability of contributory.

99. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs, and devisees shall be liable in a due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory, and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

Contributories in case of death.

100. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Contributories in case of insolvency.

Winding-up

Winding-up by Court.

Circumstances under which Company may be wound up by Court.

101. A Company under this Act may be wound up by the Court as hereinafter defined, under the following circumstances; (that is to say)—

- (1.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:
- (2.) Whenever the Company does not commence its business within a year from its incorporation, or suspend its business for the space of a whole year:
- (3.) Whenever the members are reduced in number to less than seven:
- (4.) Whenever the Company is unable to pay its debts:
- (5.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its debts.

102. A Company under this Act shall be deemed to be unable to pay its debts—

(1.) Whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered Office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

(2.) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor, in any proceeding instituted by such creditor against the Company, is returned unsatisfied in whole or in part:

(3.) Whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

103. The expression "the Court," as used in this part of this Act, shall mean the principal Court having original civil jurisdiction in the place in which the registered Office of the Company is situate; unless in the regulations for the management of the Company it shall be stipulated that the Company if wound up shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Punjab, in which case the word 'Court' shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original Civil jurisdiction.

104. Any

104. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories of the Company, or by all or any of the above parties, together or separately. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company, in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

105. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

106. The Court may at any time after the presentation of a petition for winding up a Company under this Act and before making an order for winding up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceedings against the Company, upon such terms as the Court thinks fit. The Court may also at any time after the presentation of such petition and before the first appointment of Liquidators, appoint provisionally an Official Liquidator of the estate and effects of the Company.

107. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

108. When an order has been made for winding up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company, except with the leave of the Court and subject to such terms as the Court may impose.

109. When an order has been made for winding up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of Joint Stock Companies; who shall make a Minute thereof in his Books relating to the Company.

110. The Court may at any time after an order has been made for winding up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether

gether or for a limited time, on such terms and subject to such conditions as it deems fit.

111. When an order has been made for winding up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

Effect of order on share-capital of Company limited by guarantee.

112. The Court may, as to all matters relating to the winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting and to report the result of such meeting to the Court. In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Court may have regard to wishes of creditors or contributories.

Official Liquidators.

113. For the purpose of conducting the proceedings in winding up a Company and assisting the Court therein, there may be appointed a person or persons to be called an Official Liquidator or Official Liquidators. The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidator or Official Liquidators. In all cases, if more persons than one are appointed to the office of Official Liquidator, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any and what security is to be given by any Official Liquidator on his appointment. If no Official Liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

Appointment of Official Liquidator.

Resignations, removals, filling up vacancies, and compensation.

114. Any Official Liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an Official Liquidator appointed by the Court shall be filled by the Court. There shall be paid to the Official Liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more Liquidators than one are appointed, such remuneration

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neration shall be distributed amongst them in such proportions as the Court directs.

115. The Official Liquidator or Liquidators shall be described by the style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual name or names. He or they shall take into his or their custody, or under his or their control, all the property, effects, and things in action to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding up of the Company as may be imposed by the Court.

Style and duties of Official Liquidator.

116. The Official Liquidator shall have power, with the sanction of the Court, to do the following things:—

Powers of Official Liquidator.

(1.) To bring or defend any suit or prosecution, or other legal proceeding, Civil or Criminal, in the name and on behalf of the Company:

(2.) To carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same:

(3.) To sell the immovable and moveable property, effects and things in action of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels:

(4.) To do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's Seal:

(5.) To prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency as a separate debt due from such insolvent, and ratably with the other separate creditors:

(6.) To draw, accept, make and endorse any Bill of Exchange, Hundi or Promissory Note in the name and on behalf of the Company, also to raise upon the security of the assets of the Company, from time to time any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such Bill of Exchange, Hundi or Promissory Note as aforesaid on behalf of the Company, shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof:

(7.) To take out, if necessary, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any monies due from a contributory

or

or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the Official Liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively:

(8.) To do and execute all such other things as may be necessary for winding up the affairs of the Company and distributing its assets.

Discretion of Official Liquidator. 117. The Court may provide by any order that the Official Liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an Official Liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Appointment of Attorney or Vakeel to Official Liquidator. 118. The Official Liquidator may, with the sanction of the Court, appoint an Attorney or Vakeel to assist him in the performance of his duties.

Ordinary Powers of Court.

Collection and application of assets. 119. As soon as may be after making an order for winding up the Company, the Court shall settle a list of contributories, with power to rectify the Register of members in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities.

Provision as to representative contributories. 120. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of or being liable to the debts of others.

Power of Court to require delivery of property. 121. The Court may, at any time after making an order for winding up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent, or Officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the Official Liquidator any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *prima facie* entitled.

122. The

Power of Court to order payment of debts by contributory. 122. The Court may, at any time after making an order for winding up the Company, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act. The Court may, in making such order, when the Company is not limited, allow to such contributory by way of set-off any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits. Provided that when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

Power of Court to make calls. 123. The Court may, at any time after making an order for winding up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on and order payment thereof by all or any of the contributories, for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves. The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to order payment into Bank. 124. The Court may order any contributory, purchaser or other person from whom money is due to the Company, to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the Official Liquidator instead of to the Official Liquidator, and such order may be enforced in the same manner as if it had directed payment to the Official Liquidator.

Regulation of account with Court. 125. All monies, bills, notes and other securities, paid and delivered into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to

such

such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in or investment and payment and delivery out, of the same, as the Court may direct.

126. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereof of the monies due.

Provision in case of representative contributory not paying monies ordered

127. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Order conclusive evidence.

128. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Court may exclude creditors not proving within certain time.

129. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

Court to adjust rights of contributories.

130. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding up any Company in such order of priority as the Court thinks just.

Court to order costs

131. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Dissolution of Company.

132. Any order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the dissolution of such Company.

Registrar to make Minute of dissolution of Company.

133. If

133. If the Official Liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred Rupees for every day during which he is so in default.

Penalty on not reporting dissolution of Company.

Extraordinary Powers of Court.

134. The Court may, after it has made an order for winding up the Company, summon before it any Officer of the Company or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company. The Court may require any such Officer or person to produce any documents in his custody or power relating to the Company. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

Power of Court to summon persons before it suspected of having property of Company.

135. The Court may examine upon oath or affirmation, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Examination of parties by Court.

136. The Court may, at any time before or after it has made an order for winding up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India, or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Power to arrest contributory about to abscond or to remove or conceal any of his property.

137. Any

137. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory or against any debtor of the Company, for the recovery, of any call or other sums due from such contributory or debtor, or his estate and such proceedings may be instituted accordingly.

Powers of Court cumulative.

Enforcement of and Appeal from Orders.

138. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Power to enforce orders.

139. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered Office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Order made in any Court to be enforced by other Courts.

140. Where any order or decree made by one Court is required to be enforced by another Court as herein before provided, a certified copy of the order or decree so made shall be produced to the proper Officer of the Court required to enforce the same and the production of such certified copy shall be sufficient evidence of such order or decree having been made, and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

Mode of dealing with orders to be enforced by other Courts.

141. Re-hearings of and appeals from any order or decision made or given in the matter of the winding-up of a Company by the Court, may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil procedure, unless such time is extended by the Court of Appeal.

Appeals from orders.

142. In

142. In all proceedings under this part of this Act, every Court, Judge and person judicially acting, and all other Officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any Officer of any other Court, and also of the Official Seal of any other Court when such Seal is appended to any document made, issued, or signed under the provisions of this part of the Act, or any official copy thereof.

Judicial notice to be taken of signature of Officers.

143. The Judges of the District Courts who sit at places more than twenty English miles from the usual place of sitting of the High Court shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court, and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding up the Company. Every such Commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses and requiring the production or delivery of documents and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding up the Company has, and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

Special Commissioners for receiving evidence.

144. If any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any Colony, Island, Plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the Seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this part of this Act.

Affidavit, &c., may be sworn in British India, Great Britain, or Ireland, or abroad before any competent Court or person.

Voluntary

Voluntary Winding-up of Company.

Circumstances under which Company may be wound up voluntarily.

145. A Company under this Act may be wound up voluntarily.

(1.) Whenever the period, if any fixed for the duration of the Company by the Articles of Association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.) Whenever the Company has passed an Extraordinary Resolution to the effect that it has been proved to their satisfaction that the Company cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same:

For the purposes of this Act any Resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a Special Resolution as herein before defined.

Commencement of voluntary winding-up.

146. A voluntary winding-up shall be deemed to commence at the time of the passing of the Resolution authorizing such winding-up.

Effect of voluntary winding-up on status of Company.

147. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business, except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the Company taking place after the commencement of such winding-up shall be void, but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the Company are wound up.

Notice of Resolution to wind up voluntarily.

148. Notice of any Special Resolution or Extraordinary Resolution passed for winding up a Company voluntarily shall be given by advertisement in the Local Official Gazette, and also in some newspaper (if any) circulating in the place where the registered Office of the Company is situate.

149. The

Consequences of voluntary winding up.

149. The following consequences shall ensue upon the voluntary winding-up of Company:—

(1.) The property of the Company shall be applied in satisfaction of all its liabilities *pari passu*, and subject thereto shall, unless it be otherwise provided by the regulations of the Company, be distributed amongst the members according to their rights and interests in the Company:

(2.) Liquidators shall be appointed for the purpose of winding up the affairs of the Company and distributing the property:

(3.) The Company in General Meeting shall appoint such persons or person as it thinks fit to be Liquidators or a Liquidator, and may fix the remuneration to be paid to them or him:

(4.) If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him:

(5.) Upon the appointment of Liquidators, all the powers of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the continuance of such powers:

(6.) When several Liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two:

(7.) The Liquidators may, without the sanction of the Court, exercise all powers by this Act given to the Official Liquidators:

(8.) The Liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories:

(9.) The Liquidators may at any time after the passing of the Resolution for winding up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves, and the Liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10.) The Liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

150. Where

150. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Liquidators.

Effect of winding-up on Share-capital of Company limited by guarantee.

151. A Company about to be wound up voluntarily or in the course of being wound up voluntarily may, by an Extraordinary Resolution, delegate to its creditors, or to any Committee of its creditors, the power of appointing Liquidators or any of them, and supplying any vacancies in the appointment of Liquidators, or may by a like Resolution enter into any arrangement with respect to the powers to be exercised by the Liquidators and the manner in which they are to be exercised. Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

Power of Company to delegate authority to appoint Liquidators.

152. Any arrangement which a Company about to be wound up voluntarily or in the course of being wound up voluntarily shall have entered into with its creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.

Arrangement when binding on creditors.

153. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

Powers of creditor or contributory to appeal.

154. Where a Company is being wound up voluntarily, the Liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise as respects the enforcing of calls or in respect of any other matter all or any of the powers which the Court might exercise if the Company were being wound up by the Court. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power for Liquidators or contributories in voluntary winding-up to apply to Court.

155. Where

155. Where a Company is being wound up voluntarily, the Liquidators may, from time to time during the continuance of such winding-up, summon General Meetings of the Company for the purpose of obtaining the sanction of the Company by special Resolution or Extraordinary Resolution or for any other purposes they think fit. In the event of the winding-up continuing for more than one year, the Liquidators shall summon a General Meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings and the manner in which the winding-up has been conducted during the preceding year.

Power of Liquidators to call General Meeting.

156. If any vacancy occurs in the office of Liquidators appointed by the Company, by death, resignation or otherwise, the Company in General Meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy, and a General Meeting for the purpose of filling up such vacancy may be convened by the continuing Liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing Liquidator, if any, or by any contributory of the Company, be determined by the Court.

Power to fill up vacancy in office of Liquidators.

157. If from any cause whatever there is no Liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a Liquidator or Liquidators. The Court may also, on due cause shown, remove any Liquidator, and appoint another Liquidator to act in the matter of a voluntary winding-up.

Power of Court to appoint Liquidators.

158. As soon as the affairs of the Company are fully wound up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of; and thereupon they shall call a General Meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the Liquidators. The Meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting, in the manner specified in Section 148.

Liquidators on conclusion of winding-up to make up an account.

159. The Liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return, the Company shall be deemed to

Liquidators to report meeting to Registrar.

be

be dissolved. If the Liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

Costs of voluntary Liquidation. 160. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Saving of rights of creditors. 161. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of the opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Power of Court to 'adopt' proceedings of voluntary winding-up. 162. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

Power of Court, on application, to direct winding-up subject to supervision. 163. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up should continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions as the Court thinks just.

Petition for winding-up subject to supervision. 164. A petition praying wholly or in part that a voluntary winding-up should continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding up the Company by the Court.

Court may have regard to wishes of creditors. 165. The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the supervision of the Court, in the appointment of a Liquidator or of Liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contri-

butories

butories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the Company.

Power to Court to appoint additional Liquidators in winding-up subject to supervision. 166. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional Liquidator or Liquidators. Any Liquidators so appointed by the Court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if they had been appointed by the Company. The Court may from time to time remove any Liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of Court for winding-up subject to supervision. 167. Where an order is made for a winding-up subject to the supervision of the Court, the Liquidators appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all their powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily. Save as aforesaid any order made by the Court for a winding-up subject to the supervision of the Court, shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the Liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court. In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the Official Liquidators, the expression Official Liquidators shall be deemed to mean the Liquidators conducting the winding-up subject to the supervision of the Court.

Appointment in certain cases of voluntary Liquidators to office of Official Liquidators. 168. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other persons to be Official Liquidators.

Supplemental

Supplemental Provisions.

169. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property, effects and things in action of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

Dispositions after the commencement of the winding-up avoided.

170. Where any Company is being wound up, all books, accounts and documents of the Company and of the Liquidators shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

The books of the Company to be evidence.

171. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the Liquidators may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and where the Company has been wound up voluntarily, in such way as the Company by an Extraordinary Resolution directs. But after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the Liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

As to disposal of books, accounts, and documents of the Company.

172. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

Inspection of books.

173. The Liquidators may, with the sanction of the Court, where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the Liquidators may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging

General scheme of liquidation may be sanctioned.

themselves

themselves to have any claim, present or future, whereby the Company may be rendered liable.

174. The Liquidators may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist, between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the Liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

Power to compromise.

175. Where any Company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the Liquidators of the first mentioned Company may, with the sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general authority on the Liquidators, or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing Company; and any sale made or arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the Special Resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such Special Resolution in writing addressed to the Liquidators or one of them, and left at the registered Office of the Company not later than seven days after the date of the meeting at which such Special Resolution was passed, such dissentient member may require the Liquidators to do one of the following things as the Liquidators may prefer; that is to say, either to abstain from carrying such Reso-

Power for Liquidators to accept shares, &c., as a consideration for sale of property of company.

lution

lution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase-money to be paid before the Company is dissolved, and to be raised by the Liquidators in such manner as may be determined by Special Resolution. No Special Resolution shall be deemed invalid for the purposes of this Section by reason that it is passed antecedently to or concurrently with any Resolution for winding-up the Company, or for appointing Liquidators; but if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such Resolution shall not be of any validity unless it is sanctioned by the Court.

176. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties Mode of determining price. dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

177. When any dispute so directed to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single Arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an Arbitrator to whom such dispute shall be referred. Appointment of Arbitrator when questions are to be determined by arbitration.

After any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation. If for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an Arbitrator, such last mentioned party fail to appoint such Arbitrator, then upon such failure the party making the request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both parties, and such Arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single Arbitrator shall be final.

178. If before the matters so referred shall be determined any Arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as Arbitrator, the party by whom such Arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other Arbitrator may proceed *ex parte*; and every Arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former Arbitrator at the time of such his death, refusal or disability as aforesaid. Vacancy of Arbitrator to be supplied.

179. Where

179. Where more than one Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an Appointment of Umpire. Umpire to decide on any such matters on which they shall differ. If such Umpire shall die, or refuse or for seven days neglect to act, they shall forthwith, after such death, refusal or neglect, appoint another Umpire in his place; and the decision of every such Umpire on the matters so referred to him shall be final.

180. The said Arbitrators or their Umpire may call for the production of Power of Arbitrators to call for Books, &c. of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

181. The costs of and attending every such arbitration to be determined Costs to be in the discretion of the Arbitrators. by the Arbitrators shall be in the discretion of the Arbitrators or their Umpires, as the case may be.

182. On the application of either of the parties the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder. Submission to arbitration may be filed in Court.

183. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment distress or execution put in force against the estate or effects of the Company after the commencement of the winding-up shall be void. Certain attachments, distresses, and executions to be void.

184. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would if made or done by or against any individual trader, be deemed in the event of his insolvency to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly. For the purposes of this Section, the making of an application for winding up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court and a Resolution for winding up the Company shall in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Fraudulent preference.

Company

Company formed under this Act, of all its estate and effects to trustees for the benefit of all its creditors, shall be void.

185. Where in the course of the winding-up of any Company under this Act, it appears that any past or present Director, Manager, Official or other Liquidator, or any Officer of such Company has misapplied or retained in his own hands or become liable or accountable for any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may on the application of any Liquidator, or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such Director, Manager or other Officer, and compel him to repay any monies so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust, as the Court thinks just.

Power of Court to assess damages against delinquent Directors and Officers.

186. If any Director, Officer or contributory of any Company wound up under this Act, destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes or is privy to the making of any false or fraudulent entry in any Registrar book of account or other document belonging to the Company with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment of either description as defined in the Indian Penal Code, for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

Penalty on falsification of Books.

187. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present Director, Manager, Officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may on the application of any person interested in such winding-up or of its own motion, direct the Official Liquidators, or the Liquidators (as the case may be), to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

188. If any person, upon any examination upon oath or affirmation authorized under this Act, or in any affidavit, deposition or solemn affirmation in or about the winding-up of any Company under

Prosecution of delinquent Directors in the case of winding-up by Court.

Penalty of false evidence.

this

this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall, upon conviction, be liable to imprisonment of either description as defined in the Indian Penal Code for a term which may extend to seven years and shall also be liable to fine.

Power of High Court to make Rules.

189. The High Court may make such rules concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, as may from time to time seem necessary, and as may be consistent with the other provisions of this Act and with the Code of Civil Procedure. But until such rules are made, the general practice of the Court including the practice hitherto in use in winding-up Companies shall, so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding-up a Company.

Power of High Court to make Rules.

PART V.

REGISTRATION OFFICE.

Constitution of Registration Office.

190. The registration of Companies under this Act shall be conducted as follows; (that is to say)—

(1.) The Local Government may, after the sanction of the Governor-General of India in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure:

(2.) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks and servants as aforesaid:

(3.) The Local Government may from time to time determine the places at which Offices for the registration of Companies are to be established, so that there be at all times maintained in each of the three Presidency Towns of Calcutta, Madras and Bombay at least one such Office, and that no Company shall be registered except at an Office within that part of British India in which by the memorandum of association the registered Office of the Company is declared to be established:

(4.) The Local Government may from time to time direct a Seal or Seals to be prepared for the authentication of any documents required for or connected with the registration of Companies:

(5.) Every

(5.) Every person may inspect the documents kept by the Registrar of the Joint Stock Companies. There shall be paid for such inspection such fees as may be appointed by the Local Government not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may appoint, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract:

(6.) The existing Registrar, Assistant Registrars, Clerks and other Officers and servants in the Office for the Registration of Joint Stock Companies shall, during the pleasure of the Local Government hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of of their duties conform to any regulations that may be issued by the Local Government:

(7.) There shall be paid to any Registrar, Assistant Registrar, Clerk or servant that may hereafter be employed in the Registration of Joint Stock Companies, such salary as the Local Government may with the sanction of the Governor-General of India in Council, direct:

(8.) Whenever any act is herein directed to be done to or by the Registrar of Joint Stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of Joint Stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But in the event of the Local Government altering the constitution of the existing Registry Office, such act shall be done to or by such Officer or Officers, and at such place or places with reference to the local situation of the registered Offices of the Companies to be registered as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES' ACTS.

191. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first Schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860 or either of them, in the same manner in the case of a Limited Company as if such Company had been formed and registered under this Act as a Company limited by shares; and in the case of a

Application of Act to
Companies formed under
Act XIX of 1857 of VII
of 1860.

Company

Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act, with this qualification that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by Special Resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the Table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding such regulations are contained in the memorandum of association.

192. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is herein after declared to apply to Companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Application of Act to
Companies registered un-
der Act XIX of 1857, or
VII of 1860.

193. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

Mode of transferring
Shares.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

194. With the exceptions made in the next following Section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament, or Act of the Governor-General of India in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Companies capable of
being registered.

195. The

Regulations as to registration of existing Companies.

195. The following regulations shall be observed with respect to the registration of Companies under this part of this Act : (that is to say)—

(1.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, and not being a Joint Stock Company as hereinafter defined, shall register under this Act in pursuance of this part thereof :

(2.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this part thereof as an unlimited Company, or as a Company limited by guarantee :

(3.) No Life Assurance Company existing at the time of the commencement of this Act, and no Company that is not a Joint Stock Company as hereinafter defined, shall in pursuance of this part of this Act register under this Act as a Company limited by shares :

(4.) No Company shall register under this Act in pursuance of this part thereof unless an assent to its so registering is given by a majority of such of its members as may be present, personally or by proxy in cases where proxies are allowed by the regulations of the Company at some General Meeting summoned for the purpose :

(5.) Where a Company not having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council, or by Letters Patent, is about to register as a Limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present personally or by proxy, at such last-mentioned General Meeting :

(6.) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a Resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this Section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

196. For

196. For the purposes of this part of this Act so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a Joint Stock Company shall be deemed to be a Company having a permanent paid-up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons : and such Company when registered with limited liability under this Act shall be deemed to be a Company limited by shares.

197. Previously to the registration, in pursuance of this part of this Act, of any Joint Stock Company, there shall be delivered to the Registrar the following documents : (that is to say),

(1.) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number :

(2.) A copy of any Act of Parliament or Act of the Governor-General of India in Council, Royal Charter, Letters Patent, Deed of Settlement, Contract of Copartnership or other instrument constituting or regulating the Company :

(3.) If any such Joint Stock Company is intended to be registered as a Limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars : (that is to say)—

The nominal capital of the Company and the number of shares into which it is divided :

The number of shares taken, and the amount paid on each share :

The name of the Company, with the addition of the word "Limited" as the last word thereof :

With the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of the guarantee.

198. Previously to the registration in pursuance of this part of this Act of any Company not being a Joint Stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the Directors or other Managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor-General of India in Council, Letters Patent, Deed of Settlement

ment

ment Contract of Copartnery or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of guarantee.

199. Where a Joint Stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement not more than six clear days before the day of registration.

200. The list of members and Directors and any other particulars relating to the Company hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same or any two of them, or of any two other principal Officers of the Company made before a Justice of the Peace or a District Judge.

201. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as hereinbefore defined.

202. Every Banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm having a banking account with the Company. Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the Post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company. In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

203. No

203. No fees shall be charged in respect of the registration in pursuance of this part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor-General of India in Council, or by letters Patent.

204. Any Company authorized by this part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited."

205. Upon compliance with the requisitions in this part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the Tables marked B and C in the first Schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual succession and a common Seal.

206. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a Limited or Unlimited Company, as the case may be, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

207. All such property, moveable and immoveable, including all interests and rights in, to, and out of property, moveable and immoveable, and including obligations and things in action, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

208. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of such Company previously to such registration.

209. All

209. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public Officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding up the Company.

210. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnership, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the Resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and Articles of Association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following; (that is to say),

(1.) That Table A in the first Schedule to this Act shall not, unless adopted by Special Resolution, apply to any Company registered under this Act in pursuance of this part thereof:

(2.) That the provisions of this Act relating to the numbering of shares shall not apply to any Joint Stock Company whose shares are not numbered:

(3.) That no Company shall have power to alter any provision contained in any Act of Parliament, Act of the Legislative Council, or Act of the Governor-General of India in Council relating to the Company:

(4.) That no Company shall have power, without the sanction of the Governor-General of India in Council, to alter any provision contained in any Letters Patent relating to the Company:

(5.) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members

amongst

amongst themselves in respect of any such debt or liability; or to pay or contribute to the payment of the costs, charges and expenses of winding up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, or marriage of any such contributory being a female, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, and to the husbands of married contributories, shall apply:

(6.) Nothing herein contained shall authorize any Company to alter any such provisions contained in any Deed of Settlement, Contract of Copartnership, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act:

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnership, Letters Patent or other instrument constituting or regulating the Company.

211. The Court may, at any time after the presentation of a petition for winding up a Company registered in pursuance of this Part of this Act, and before making an order for winding up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceedings against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

212. Where an order has been made for winding up a Company registered in pursuance of this Part of the Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

213. Subject as hereinafter mentioned any partnership, association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor-General of India in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term Unregistered Company, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1.) An Unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate; or if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an Unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered Office of the Company :

(2.) No Unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3.) The circumstances under which an Unregistered Company may be wound up are as follows; (that is to say) :—

(a.) Whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(b.) Whenever the Company is unable to pay its debts ;

(c.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4.) An Unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts.

(a.) Whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the

service

service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor :

(b.) Whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the Secretary, or some Director, Manager or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not within ten days after service of such notice paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same :

(c.) Whenever execution or other process, issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied :

(d.) Whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

214. In the event of an Unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding up the Company. Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding up all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

215. The Court may, at any time after the making of an application for winding up an Unregistered Company, and before making an order for winding up the Company, upon the application of any creditor of the Company, restrain further proceedings

in

in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

216. Where an order has been made for winding up an Unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

217. If any Unregistered Company has no power to sue and be sued in a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding up such Company or by any subsequent order, direct that all such property, moveable and immovable, including all interests, claims and rights into and out of property, moveable and immovable, and including things in action, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company or any part of such property, is to vest in the Official Liquidator or Official Liquidators by his or their official name or names, and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his or their official name or names, or in such name or names and after giving such indemnity as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding up the Company and recovering the property thereof.

218. The provisions made by this Part of the Act with respect to Unregistered Companies shall be deemed to be made in addition to and not in restriction of any provisions hereinbefore contained with respect to winding up Companies by the Court. The Court or Official Liquidator may, in addition to any thing contained in this Part of the Act, exercise any powers or do any act in the case of Unregistered Companies which might be exercised or done by it or him in winding up Companies formed under this Act; but an Unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

REPEAL OF ACTS AND MISCELLANEOUS PROVISIONS.

Repeal of Acts.

219. After the commencement of this Act, there shall be repealed the several Acts specified in the third Schedule hereto.

220. No

Saving Clause as to repeal.

220. No repeal hereby enacted shall affect—

- (1.) Any thing duly done under any Acts hereby repealed:
- (2.) The incorporation of any Company registered under any Act hereby repealed:
- (3.) Any right or privilege acquired or liability incurred under any Act hereby repealed:
- (4.) Any penalty, forfeiture or other punishment incurred in respect of any offence against any Act hereby repealed:
- (5.) Table B in the Schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

221. Where previously to the commencement of this Act an order has been made for winding up a Company under any Acts or Act hereby repealed, or a Resolution has been passed for winding up a Company voluntarily such Company shall be wound up in the same manner and with the same incidents as if this Act were not passed, and for the purposes of such winding-up, such repealed Acts or Act shall be deemed to remain in full force.

222. Where previously to the commencement of this Act any conveyance, mortgage or other deed has been made in pursuance of any Act hereby repealed, such deed shall be of the same force as if this Act had not passed, and for the purposes of such deed, such repealed Act shall be deemed to remain in full force.

223. Every Company required by any Act hereby repealed to register under the said Acts, or either of them, and which has not so registered, shall, on or before the expiration of the thirty-first day from the commencement of this Act, register itself as a Company under this Act, in manner and subject to the regulations hereinbefore contained. No fees shall be charged in respect of the registration of any Company required to register by this Section.

224. If any Company required by the last Section to register under this Act makes default in complying with the provisions thereof, then, from and after the day upon which such Company is required to register under this Act, until the day on which such Company is registered under this Act (which it is empowered to do at any time), the following consequences shall ensue, (that is to say)—

- (1.) The Company shall be incapable of suing but shall not be incapable of being made a defendant to a suit.

(2.) No

(2.) No dividend shall be payable to any shareholder in such Company.

(3.) Each Director or Manager of the Company shall, for each day during which the Company so being in default carries on business, incur a penalty not exceeding one hundred rupees, and such penalty may be recovered by any person, whether a shareholder or not in the Company, and be applied by him to his own use.

Nevertheless, such default shall not render the Company so being in default illegal, nor subject it to any penalty or disability other than as specified in this Section, and registration under this Act shall cancel any penalty or forfeiture, and put an end to any disability which any Company may have incurred by reason of its not having registered under the said Act No. XIX of 1857.

225. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

226. If any offence which by this Act is declared to be punishable by any penalty shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

227. All penalties imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the penalty.

228. In case any such penalty shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

229. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such

Cognizance of offences under this Act.

Punishment of offences under this Act, committed within local limits of High Court.

Levy of penalties by distress.

Procedure until return is made to distress warrant.

Imprisonment, if no sufficient distress.

such penalty could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of penalty.

230. In Sections 1 and 18 of Act No. XXI of 1860 (*for the registration of Literary, Scientific and Charitable Societies*), the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of Joint Stock Companies under this Act or any Act for the time being in force.

Construction of "Registrar of Joint Stock Companies" in Act No. XXI of 1860.

Act not to apply to Banks of Bengal, Madras or Bombay.

231. Save as provided in Section 125, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras, and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in General Meeting may prescribe, be entitled to a certificate, under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in General Meeting may prescribe.

Calls on Shares.

(4.) The Directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Directors.

(5.) A call shall be deemed to have been made at the time when the Resolution of the Directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the monies due upon the shares held by him beyond the sums actually called

called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of _____ in consideration of the sum of Rupees _____
 paid to me by C D of _____ do hereby transfer to the said C D the
 share (or shares) numbered _____ standing in my name in the books of the
 Company, to hold unto the said C D his Executors,
 Administrators and Assigns, subject to the several conditions on which I held the same at the time
 of the execution hereof; and I, the said C D, do hereby agree to take the said share (or shares)
 subject to the same conditions. As witness our hands, the _____ day of _____

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the Ordinary General Meeting in each year.

Transmission of Shares.

(12.) The Executors or Administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the Directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the Directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered Office of the

Company

Company or some other place at which calls of the Company are usually made payable. The notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a Resolution of the Directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in General Meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a Resolution of the Directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The Directors may, with the sanction of the Company previously given in General Meeting, convert any paid-up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes, as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The Directors may, with the sanction of a Special Resolution of the Company previously given in General Meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in General Meeting directs, or, if no direction is given, as the Directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an

intimation

intimation from the member to whom such notice is given, that he declines to accept the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new share shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first General Meeting shall be held at such time not being more than six months after the registration of the Company, and at such place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting, and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year at such place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an Extraordinary General Meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the receipt of such requisition the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members, amounting to the required number, may themselves convene an Extraordinary General Meeting.

Proceedings at General Meetings.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(36.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance sheets, and the ordinary report of the Directors.

(37.) No business shall be transacted at any General Meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows: that is to say, if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(39.) The

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be Chairman.

(41.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such Resolution.

(43.) If a poll is demanded by five or more members, it shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting. In the case of an equality of votes at any General Meeting the Chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the Register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any General Meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered Office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

Company Limited.

I _____ of _____ being a member of the
Company Limited, and entitled to _____ vote or _____ votes, hereby
appoint _____ of _____ as my proxy, to vote for me and on my behalf at the (Ordinary or
Extraordinary,

Extraordinary, as the case may be) General Meeting of the Company to be held on the day of _____, and at any adjournment thereof (or, at any meeting of the Company that may be held in the year _____). As witness my hand, this day of _____

Signed by the said _____ in the presence of _____

Directors.

(52.) The number of the Directors, and the names of the first Directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

(54.) The future remuneration of the Directors, and their remuneration for services performed previously to the first General Meeting, shall be determined by the Company in General Meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the Directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any regulations of these Articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

(56.) The continuing Directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of Director shall be vacated—

If he holds any other office or place of profit under the Company;

If he becomes bankrupt or insolvent;

If he is concerned in, or participates in the profits of any contract with the Company;

But the above rules shall be subject to the following exceptions: That no Director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

Rotation of Directors.

(58.) At the first Ordinary Meeting after the registration of the Company, the whole of the Directors shall retire from office; and at the first Ordinary Meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third shall retire from office.

(59.) The one-third or other nearest number to retire during the first and second years ensuing the first Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If at any meeting at which an election of Directors ought to take place the places of the vacating Directors are not filled up, the meeting shall stand adjourned till the same day in the next

week.

week, at the same time and place; and if at such adjourned meeting the places of the vacating Directors are not filled up, the vacating Directors, or such of them as have not had their places filled up, shall continue in office until the Ordinary Meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in General Meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

(65.) The Company in General Meeting may, by a Special Resolution, remove any Director before the expiration of his period of office, and may by an Ordinary Resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or casting vote. A Director may at any time summon a meeting of the Directors.

(67.) The Directors may elect a Chairman of their meetings, and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

(68.) The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.

(69.) A Committee may elect a Chairman of its meetings. If no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting.

(70.) A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes, the Chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

Dividends.

(72.) The Directors may, with the sanction of the Company in General Meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing

dividends,

dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the Directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The Directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the Directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The Directors shall cause true accounts to be kept,

Of the stock in trade of the Company;

Of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

Of the credits and liabilities of the Company.

The books of account shall be kept at the registered Office of the Company, and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the Directors shall lay before the Company in General Meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in General Meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the Directors; subsequent auditors shall be appointed by the Company in General Meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no Director or other Officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the Directors; that of subsequent auditors shall be fixed by the Company in General Meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other Officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the Directors, whether such explanations or information have or has been given by the Directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the Directors, at the Ordinary Meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register of Members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Dr.

Dr.

Cr.

Company made up to

Balance-sheet (a) of the

CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
Dr.	Rs.	As.	Rs.
I. CAPITAL.	SHOWING :	7	Immovable property, distinguishing— (a) Freehold land..... (b) " Buildings..... (c) Leasehold "..... Moveable property, distinguishing— (a) Stock in trade..... (e) Plant..... The cost to be stated with deductions for deterioration in value as charged to the reserve fund of profit and loss..
II. DEBTS AND LIABILITIES OF THE COMPANY.	SHOWING :	8	
	The number of shares The amount paid for shares..... If any arrears of calls, the nature of the arrear, and the names of the defaulters..... The particulars of any forfeited shares.....	9	Debts considered good for which the Company hold bills or other securities. Debts considered good for which the Company hold no security..... Debts considered doubtful and bad, any debt due from a Director or other Officer of the Company to be separately stated.....
VI. RESERVE FUND.	SHOWING :	10	
	The amount of loans on mortgages or debenture bonds..... The amount of debts owing by the Company, distinguishing..... (a) Debts for which acceptances have been given..... (b) Debts to tradesmen for supplies of stock in trade or other articles. (c) Debts for law expenses..... (d) Debts for interest on debentures or other loans..... (e) Unclaimed dividends..... (f) Debts not enumerated above.....	11	
VII. PROFIT AND LOSS.	SHOWING :	12	The nature of investment and rate of interest.....
CONTINGENT LIABILITIES.	SHOWING :	13	The amount of cash, where lodged, and if bearing interest.....

TABLE B.

TABLE B.

Table of Fees to be paid to the Registrar of Joint Stock Companies by a Company having a capital divided into shares.

	Rs. A. P.
For registration of a Company whose nominal capital does not exceed Rupees 20,000, a fee of...	40 0 0
For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—	
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 20,000 rupees up to 50,000 rupees...	20 0 0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 50,000 rupees up to 1,000,000 ...	5 0 0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 1,000,000 rupees...	1 0 0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees or part of rupees 10,000 as would have been payable if such increased capital had formed part of the original capital at the time of registration.	
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account in the case of fees payable on an increase of capital after registration the fees paid on registration.	
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.	
For registering any document hereby required or authorized to be registered, other than the memorandum of association.	5 0 0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5 0 0

TABLE C.

Table of Fees to be paid to the Registrar of Joint Stock Companies by a Company not having a capital divided into shares.

	Rs. A. P.
For registration of a Company whose number of members, as stated in the Articles of Association, does not exceed 20	40 0 0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 20, but does not exceed 100...	100 0 0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members or less number than 50 members after the first 100.	
For registration of a Company in which the number of members is stated in the Articles of Association to be unlimited, a fee of...	400 0 0

For

For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members of such increase	5 0 0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.	
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.	
For registering any document hereby required or authorized to be registered, other than the memorandum of Association...	5 0 0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5 0 0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. , divided into shares of each
 The number of shares issued is , Calls to the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were :—

Debts owing to sundry persons by the Company :

Under decree, Rs.
 On Specialty, Rs.
 On Notes or Bills, Rs.
 On Simple Contracts, Rs.
 On estimated Liabilities, Rs.

The Assets of the Company on that day were :—

Government Securities (stating them), Rs.
 Bills of Exchange and Promissory Notes, Rs.
 Cash at the Bankers, Rs.
 Other Securities, Rs.

SECOND SCHEDULE.

FORM A.

Memorandum of Association of a Company limited by shares.

- 1st.—The name of the Company is “ the Company, Limited.”
- 2nd.—The registered Office of the Company will be situate in
- 3rd.—The objects for which the Company is established are, “ and the doing all such other things as are incidental or conducive to the attainment of the above object.”
- 4th.—The liability of the members is limited.
- 5th.—The capital of the Company is Rs. divided into shares of Rs. each.

We,

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names :—

Names, Addresses, and Descriptions of Subscribers.				Number of shares taken by each Subscriber.
1.	A.	B.	of	.....
2.	C.	D.	”	.....
3.	E.	F.	”	.....
4.	G.	H.	”	.....
5.	I.	J.	”	.....
6.	K.	L.	”	.....
7.	M.	N.	”	.....
Total shares taken.....				

Dated the day of

Witness to the above signatures.

O. P. of

* If the Company has no capital divided into shares, the portion of the Statement relating to Capital and Shares must be omitted.

FORM B.

Memorandum and Articles of Association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

- 1st.—The name of the Company is “ the Mutual Calcutta Marine Association, Limited.”
- 2nd.—The registered Office of the Company will be situate in Calcutta.
- 3rd.—The objects for which the Company is established are “ the Mutual Insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects.”
- 4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed are desirous of being formed into a Company in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

- (1.) The Company, for the purpose of registration is declared to consist of five hundred members.

(2.) The

(2.) The Directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first General Meeting shall be held at such time not being more than three months after the incorporation of the Company, and at such place as the Directors may determine.

(5.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting ; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year at such place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings ; all other General Meetings shall be called Extraordinary.

(7.) The Directors may whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene an Extraordinary General Meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting ; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(11.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows : that is to say, if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five ; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

(13.) If within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting if convened upon the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week, at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be Chairman of such meeting.

(16.) The

(16.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place ; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour or against such Resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs ; and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator : if any member is a minor, he may vote by his guardian or any one of his guardians if more than one .

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a Corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered Office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form :—

COMPANY LIMITED.

I of being a member of the
Company Limited, hereby appoint of as my
proxy, to vote for me and on my behalf at the [Ordinary or Extraordinary, *as the case may be*] General
Meeting of the Company to be held on the day of , and at any adjournment
thereof to be held on the day of next [*or at any meeting of the Company that*
may be held in the year .]

As witness my hand, this _____ day of _____
Signed by the said _____ in the presence of _____

Directors.

(25.) The number of the Directors and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

(26.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in General Meeting ; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The Directors shall be elected annually by the Company in General Meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

ACCOUNTS.

(29.) The accounts of the Company shall be audited by a Committee of five members, to be called the Audit Committee.

(30.) The

(30.) The first Audit Committee shall be nominated by the Directors out of the body of members.

(31.) Subsequent Audit Committees shall be nominated by the members at the Ordinary General Meeting in each year.

(32.) The Audit Committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The Audit Committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company. They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may in relation to such accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations of the Company, and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory; and such report shall be read together with the report of the Directors at the Ordinary Meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by the Indian Companies' Act, 1866, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of ... Merchant.
2. C. D. of ... "
3. E. F. of ... "
4. G. H. of ... "
5. I. J. of ... "
6. K. L. of ... "
7. M. N. of ... "

Dated the day of 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and Articles of Association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The

2nd.—The registered Office of the Company will be situate in

3rd.—The objects for which the Company is established are of the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The Directors may, with the sanction of the Company in General Meeting, reduce the amount of shares.

3. The Directors may, with the sanction of the Company in General Meeting, cancel any shares belonging to the Company.

4. All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

Dated the day of 1866 .

Witness to the above signatures.

O. P. of

Memorandum

THIRD SCHEDULE.

Number and date of Act.	Title of Act.
No. XLIII of 1850	An Act for the Regulation of Joint Stock Companies.
No. XIX of 1857	An Act for the Incorporation and Regulation of Joint Stock Companies and other Associations, either with or without limited liability of the members thereof.
No. VII of 1860	An Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability.

ACT No. XI OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

Whereas the Assam Tea Company is to be incorporated by a local Act of Parliament made and passed in the 28th and 29th years of the reign of Her Majesty, Cap. CXXIX; but, under or by virtue of the second Section of the said Act of Parliament, its operation is deferred until the expiration of two months next after the day of the passing by the Governor General of India in Council of an Act to repeal the Act of the Legislative Council of India, No. IV of 1855; and whereas it is expedient to repeal the same Act in order that the said Act of Parliament may be brought into operation; It is hereby enacted as follows :—

1. Act No. IV of 1855 is hereby repealed, except as to the repeal of Act No. XIV of 1854 effected thereby, and except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

For two months, the powers, rights, and liabilities of Assam Company not to be affected.

2. For the period of two months next after the day of the passing of this Act, the incorporation, powers, rights, and liabilities of the said Company shall continue as if this Act had not been passed.

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:—

- | | |
|--|---|
| Interpretation Clause.
Number.
"Section."
"Local Government."
"Collector."
"Canal Officer." | 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.

10. If

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

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.

Collector to require applicant to pay purchase-money.

On payment, applicant to be authorized to take right.

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.

Applicant may enter with workmen, &c.

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):—

Power to Local Government to make rules.

(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 hereinbefore 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. XIII 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 exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.

Preamble.

Whereas it is expedient to exempt certain suits in Oude relating to land from the operation of the rules of limitation in force in that Province; It is enacted as follows :—

1. No suits relating to any tenure which, under the provisions of Act No. XVI of 1865, shall be solely cognizable in the Courts of Revenue in the said Province, shall be barred under the rules of limitation in force in such Courts if the cause of suit shall have arisen on or after the 13th day of February 1844. And any suit or appeal relating to any tenure and cognizable as aforesaid, which may have been rejected or dismissed upon the ground that the suit was barred under the said rules, may be revived and heard on the merits, if the cause of suit shall have arisen on or after such day.

2. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit in any Civil Court or any Revenue Court in the said Province to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding. Provided that any suit for the redemption of land, which may have been rejected or dismissed upon the ground that the suit was barred under some rule of limitation in force, or

supposed

supposed to be in force, in the said Province, may be revived and heard as aforesaid, if the mortgage shall have been executed on or after the said day.

3. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the 13th day of February 1856; Provided that if any such term had expired before that day, the suit shall be barred whatever may have been the date on which the instrument was executed.

This Act not to bar redemption suits where term for redemption had not expired before 13th February 1856.

4. This Act shall be read with and taken as part of the said Act No. XVI of 1865.

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

XIV of 1866.

THE INDIAN POST OFFICE ACT, 1866.

ARRANGEMENT OF SECTIONS.

PART I.

Preliminary.

SECTION.

1. Commencement of Act. Short Title.
2. Interpretation Clause.
3. Repeal of Act No. XVII of 1854.
4. References to Act No. XVII of 1854 to be read as made to this Act.
5. Exclusive privilege of carrying letters vested in the Government of India.
6. Persons expressly forbidden to collect, carry, or deliver letters.
7. Appointment of Officers for service of Post Office.

PART II.

Postage Rates.

8. Postage rates on letters.
9. Postage rates on newspapers.
10. Newspapers how to be sent by letter-post.
11. Newspapers when charged with letter-postage.
12. Proof-sheets.
13. Postage rates on books, packets of newspapers, &c.
14. Inland banghy postage.
15. Table of distances for calculation of Banghy postage.
16. Where there is no banghy post, parcels, books, &c., may be carried by letter-post.
Certificate.
17. Book packets and parcels not exceeding ten tolahs in weight to go by letter-post, unless directed to be sent by banghy or book-packet post.
18. Ship postage on parcels.
19. Governor-General in Council may direct pre-payment of postage in all cases.
20. Governor-General

SECTION.

20. Governor-General in Council may alter the rates of postage.
21. Governor-General in Council may fix rates of steam postage.
22. Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea.
23. Governor-General in Council may fix express postage rates.
24. Re-directed letters.

PART III.

Registered Letters.

25. Letters may be registered.
26. Governor-General in Council may declare in what cases registration shall be compulsory.

PART IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

27. Re-delivery of letters and other articles once put into the Post Office.
28. Postage on unpaid letters, &c., to be paid by the receiver.
29. Unclaimed letters, how to be dealt with.
Unclaimed letters when sent to Post Master General's Office, to be opened.
And returned in Dead Letter covers to senders.
Money, &c., found therein, how disposed of.
30. Refused letters to be returned to posting office.

PART V.

Mails on board Inward and Outward bound Vessels.

31. Commanders of inward-bound vessels carrying Mails, how to proceed on arrival.
Penalty for disobeying directions in this Section.
32. Detention of letters on board inward-bound vessels.
33. Bounty-money.
34. Commanders of outward-bound vessels to receive Mails on board.

PART VI.

Postage Stamps.

35. Stamped letters to be considered as pre-paid.
36. Postage stamps to be provided by Government.

37. Postage

SECTION.

37. Postage stamps to be under management of Officer appointed by Government.
38. Rules for guidance of vendors of postage stamps.
39. Penalty for breach of such rules.
40. Penalty for refusing to supply stamps.
41. Penalty for selling stamps for higher price than the value denoted thereby.

PART VII.

Offences against the Post Office.

42. Penalty for sending dangerous substance by post.
43. Penalty for making false certificate in order to defraud Post Office.
44. Penalty for detaining Mails or opening mail bags.
45. Penalty for retaining letters, &c., delivered by mistake.
46. Penalties for breach of privilege conferred by Section 5.
47. Penalty for neglect on the part of persons employed to carry Mails.
48. Penalty for stealing, &c., or opening letters, &c., by persons employed in the Post Office.
49. Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.
50. Penalty for preparing incorrectly, altering or secreting documents, by persons employed in the Post Office.
51. Penalty for sending letters on which postage has not been paid or charged, by persons employed in the Post Office.
52. Penalty for abetting or concealing offences under this Act.
53. Any person charged with offence punishable with fine only may be summarily convicted.
54. Conviction to be quashed on merits only. Form of conviction.
55. Magistrate may refer charge to his Assistant.
56. Fines how levied.
Imprisonment if no sufficient distress, &c.
57. Share of fine to informer.
58. No proceedings for recovery of fines to be taken without an order.
59. Post Office servants committing offences in allied States.
60. Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

PART VIII.

SECTION.

PART VIII.

Miscellaneous.

61. Property sent by the post to be laid in the Post Master General.
62. Letters on Her Majesty's service, duly certified as such, how to be charged.
63. Governor-General in Council may frame rules.
64. District dawks.
65. Government not responsible for loss.

ACT NO. XIV 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 for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

Whereas it is expedient to amend the law for the management of the Post Office, for the regulation of the duties of postage, and for the punishment of offences against the Post Office; It is enacted as follows :—

Preamble.

PART I.

Preliminary.

Commencement of Act.
Short title.

1. This Act shall come into operation on the first day of May 1866, and may be cited as "The Indian Post Office Act, 1866."

Interpretation Clause.
"Criminal Court."

"Fine."

"Clubbed Packet."

2. In this Act—unless there be something repugnant in the subject or context—"Criminal Court" includes every Judge, Magistrate, Justice of the Peace or Police Magistrate lawfully exercising jurisdiction in criminal cases: "Fine" includes a penalty or forfeiture, or a sum of money due upon a forfeited recognizance: "Clubbed packet" shall be taken to mean a packet containing

containing a collection of letters, not made by an agent of the Post Office, transmitted through the Post Office with the view of the enclosed letters being delivered

“Newspaper.”

“Mails.”

to more than one person through the agent of the person by whom the packet was made up: “Newspaper” shall include any periodical publication, published at regular intervals not exceeding thirty-one days: “Mails” shall include any letter, parcel or other article conveyed under the provisions of this Act, as well as any box, bag or other article, or any carriage, horse, messenger or other person employed or used by the Post Office for the conveyance or safe custody of the

mails; and “British India” includes the territories which are now or shall be vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (An Act for the better Government of India.)

3. Act No. XVII of 1854 is hereby repealed, except so far as it repeals the whole or any part of any other Act or Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced before this Act shall come into operation.

Repeal of Act No. XVII of 1854.

References to Act No. XVII of 1854 to be read as made to this Act.

4. References to any Section of Act No. XVII of 1854 made in any Act passed subsequent thereto, shall be read as if made to the corresponding Section of this Act.

5. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the said Government shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say—

Exclusive privilege of carrying letters vested in the Government of India.

(1.) Letters sent by a private friend in his way, journey or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward or other profit or advantage for receiving, carrying or delivering the same.

(2.) Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose.

(3.) Letters solely concerning goods or other property sent either by sea or land to be delivered with the goods or property which such letters concern, without hire, reward or other profit, or advantage for receiving, carrying or delivering

delivering such letters. But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

6. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say—

Persons expressly forbidden to collect, carry or deliver letters.

(1.) Common carriers of passengers or goods, and their drivers, servants or agents, except letters solely concerning goods in their carriages.

(2.) Owners and Commanders of ships, steam-boats or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.

7. For carrying on the service of the Post Office, it shall be lawful for the Governor-General of India in Council to appoint or to authorize the appointment of such Officers, with such official styles or designations, and to invest them with and delegate to them such powers not inconsistent with the provisions of this Act, as the said Governor-General of India in Council may, from time to time, deem expedient.

Appointment of Officers for service of Post Office.

PART II.

Postage Rates.

8. Wheresoever posts or postal communications are or shall be established by the Government of India, postage, if pre-paid by a stamp or stamps as hereinafter provided, shall be charged by weight on letters transmitted by the letter-post by land, according to the following scale:—

Postage rates on letters.

On every letter not exceeding a quarter of a tolah in weight,—six pie:

On every letter exceeding a quarter of a tolah and not exceeding half a tolah in weight,—one anna:

On every letter exceeding half a tolah and not exceeding one tolah in weight,—two annas:

And for every half tolah in weight above one tolah, one additional anna; and every fraction of half a tolah above one tolah shall be charged as one additional half tolah.

Every

Every article transmitted by the letter post shall be deemed a letter within the meaning of this Section, unless it be an article on which a different rate of postage shall be chargeable under this Act.

9. Wheresoever posts or postal communications are or shall be established by the Government of India, postage on newspapers, transmitted by the letter-post by land, shall be charged by weight according to the following scale:—

On every newspaper not exceeding ten tolahs in weight,—one anna :

On every newspaper exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas :

And for every ten tolahs in weight above twenty tolahs, one additional anna ; and every fraction of ten tolahs shall be charged as ten additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper through the Post Office, but it shall be lawful for all persons to send the same in any other manner.

10. A newspaper shall not be sent by the letter-post at the rates prescribed in the last preceding Section, unless the following conditions be observed, that is to say—

- (1.) It shall be without a cover, or in a short cover open at both ends :
- (2.) There shall be no word printed on such newspaper after its publication, or upon the cover thereof, nor any writing or mark upon it, or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender :
- (3.) There shall be no paper or thing enclosed in or with any such newspaper.

11. Any newspaper sent by the letter-post in respect of which the above conditions shall not be observed shall, together with any thing enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

12. Proof-sheets marked as such may be sent by the letter-post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender ; otherwise

otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

13. Subject to such rules and conditions as the Governor-General of India in Council may from time to time direct, books, packets of newspapers and other articles, provided the postage thereon be prepaid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall be charged with the following rates of postage, without reference to the distance to which they may be carried:—

If not exceeding ten tolahs in weight,—one anna :

If exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas :

And for every ten tolahs in weight above twenty tolahs, one additional anna ; and every fraction of ten tolahs shall be charged as ten additional tolahs.

If the postage chargeable on any such book or other article be not pre-paid as aforesaid, it shall be subject to the rate of postage prescribed for banghy parcel in Section 14 of this Act.

14. Inland postage shall be charged by weight and distance, on parcels sent by the banghy post, according to the following scale:—

For distances.		IF NOT EXCEEDING IN WEIGHT.							
		20 Tolahs.	50 Tolahs.	100 Tolahs.	200 Tolahs.	300 Tolahs.	400 Tolahs.	500 Tolahs.	600 Tolahs.
	Miles.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.
Not exceeding...	300	0 4	0 8	0 12	1 8	2 4	3 0	3 12	4 8
Not exceeding...	600	0 8	1 0	1 8	3 0	4 8	6 0	7 8	9 0
Not exceeding...	900	0 12	1 8	2 4	4 8	6 12	9 0	11 4	13 8
Not exceeding...	1,200	1 0	2 0	3 0	6 0	9 0	12 0	15 0	18 0
Exceeding	1,200	1 4	2 8	3 12	7 8	11 4	15 0	18 12	22 8

Provided that not more than one letter shall be enclosed in a banghy parcel, under a penalty not exceeding fifty Rupees.

15. Banghy postage, when chargeable by distance under Section 14 of this Act, shall be calculated and charged according to such Table of distances as shall be authorised from time to time for that purpose by the Governor-General of India in Council. And

it

it shall be lawful for the Governor-General of India in Council to declare that the distances from or to Post Offices not entered in such Table shall, for the purposes of this Act, be regarded as represented by the distances shown in the Table from or to the Post Offices nearest to them respectively. Each Post Master General shall prepare from the aforesaid Table, in the English and Vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices in India, arranged alphabetically, and showing the distance of each of them from the Post Office for the use of which it is made, and such list shall be affixed in some conspicuous place in such Post Office.

16. Where there is no banghy post established on any line of road, parcels, books, and other articles shall be received and transmitted by the letter-post, and shall be charged with postage according to the scale in Section 13 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet or other article under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any Section of this Act.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet or other article shall be charged with letter postage as if sent separately, and the sender shall be subject to the penalty hereinafter provided.

17. All book-packets and parcels not exceeding ten tolahs in weight, sent through the Post Office, shall be conveyed by letter-post, and be charged with letter postage, unless specially directed to be sent by banghy or book-packet post.

18. On all parcels chargeable under Section 11 of this Act with banghy postage according to distance when conveyed by land, ship postage shall be charged when they are conveyed by means of Her Majesty's Indian post by sea, according to the following scale, that is to say—

On every parcel not exceeding twenty tolahs in weight,—two annas :

On every parcel exceeding twenty tolahs but not exceeding forty tolahs in weight,—four annas :

On every parcel exceeding forty tolahs but not exceeding one hundred tolahs in weight,—eight annas :

And for every hundred tolahs in weight above one hundred tolahs,—eight additional annas. Every fraction of one hundred tolahs above one hundred tolahs shall

shall be charged as one hundred additional tolahs; and if such parcel be conveyed by Her Majesty's Indian Post, partly by land and partly by sea, ship postage shall be charged in addition to inland banghy postage.

19. It shall be lawful for the Governor-General of India in Council at any time to direct that all or any letters or other articles shall not be forwarded by post, unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps; or that on all or any letters or other articles on which the postage shall not be fully pre-paid by a stamp or stamps, or otherwise, as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

20. It shall be lawful for the Governor-General of India in Council from time to time to authorize the levy of postage at rates different from those prescribed in this Act, provided that no increase be made in any particular of the rates prescribed in Sections 8 and 9 of this Act.

21. It shall be lawful for the Governor-General of India in Council from time to time to direct that postage duties, different from the rates authorized by this Act, shall be chargeable on letters or other articles to be specified in such order, sent through the post from or to any part of Great Britain, or any British colony, or any Foreign country to or from any places in British India. The postage charged on any letter or other article specified in any order of Council made under this Section, whether under the name of steam postage or any other denomination, shall, after the rates of such postage have been published in the Official Gazette of any Presidency, be recovered in the same manner as postage under this Act.

22. It shall be lawful for the Governor-General of India in Council to fix, from time to time, rates of postage to be levied on all letters or other articles transmitted by post, by sea, or partly by sea and partly by land, from one part or place in India to another. It shall not be necessary that such rates be uniform; but they may vary according to the conveyance or route by which such letters or other articles shall be sent.

23. It

23. It shall be lawful for the Governor-General of India in Council, from time to time to fix and order any rate of postage to be charged for the conveyance of letters or other articles by express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Governor-General in Council may fix express postage rates.

24. On every letter or other article which shall be re-directed at any Post Office, or forwarded by post from any place to which it shall have been conveyed by post, there shall be charged for the postage thereof from the place at which the same shall be re-directed, or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed or from which it shall be forwarded.

Re-directed letters.

PART III.

Registered Letters.

25. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office, and that a receipt shall be granted for such registered letter or article; and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

Letters may be registered.

26. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration fee shall be levied on the delivery of any letter or other article which ought, under the order of the Governor-General in Council, to have been registered at the time of posting, on which the registration fee shall not have been pre-paid as directed in Section 25.

Governor-General in Council may declare in what cases registration shall be compulsory.

PART IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

27. No person having delivered into any Post Office any letter or other article shall be entitled to re-call the same; but nothing in this Section shall prevent the re-delivery of any letter or other article to the sender thereof, subject to such rules and regulations,

Re-delivery of letters and other articles once put into Post Office.

regulations, if any, as the Governor-General of India in Council may from time to time prescribe in that behalf.

28. The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened; but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or other article shall be bound to pay the postage thereof. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the Secretary of State for India by any Post Master General, or by any Officer in charge of a Post Office by order of a Post Master General, in the same manner as a fine may be recovered under this Act; and it shall be lawful for the Officer in charge of any Post Office to withhold from the person so refusing, until such postage be paid, any other letter or other article addressed to that person, not being on Her Majesty's Service. Provided always, that if a letter or other article shall appear to the satisfaction of the Post Master of the Office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the delivery Office may remit the postage.

Postage on unpaid letters, &c., to be paid by the receiver.

29. *Clause 1.*—A list of all letters and other articles posted and addressed to persons who cannot be found shall be prepared daily in every Post Office, and exposed for not less than two weeks in the most conspicuous part of such Office; and all such letters and other articles which shall have remained three weeks unclaimed in any Office shall, if the sender's name and address are written on the cover, be returned to the Posting Office to be delivered to the sender free of all charge. All letters and other articles of which the sender's name and address cannot be ascertained unless they be opened, shall, after remaining unclaimed for three weeks as aforesaid, be forwarded to the Office of the Post Master General of the Presidency.

Unclaimed letters how to be dealt with.

Clause 2.—The Post Master General or some person duly appointed for the purpose and bound to secrecy, shall immediately open all such letters or other articles, and if the addresses of the senders can be discovered, shall enclose them in Dead letter covers, and return them to the senders. All letters and other articles of which neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the Office of the Post Master General for one year, be destroyed.

Unclaimed letters when sent to Post Master General's Office to be opened, and returned in Dead Letter covers to senders.

Clause 3.

Clause 3.—All money found in any unclaimed letter or other article shall be paid into the Public Treasury ; and all other valuable property found as above shall be sold by the Post Master General of the Presidency or by some one duly authorized by him for that purpose ; and the proceeds of the sale shall be paid into the Public Treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

Money, &c., found there-
in how disposed of.

30. Every letter or other article rejected unopened by the person to whom it is addressed, shall, if any postage is due thereon and if the sender's name and address are written on the cover, be returned to the Posting Office, in order that the postage due may be recovered from the sender ; in all other cases, or when the sender's name and address are not on the cover, such letter or other article shall be forthwith sent to the Office of the Post Master General of the Presidency, who shall open the letter or other article and take measures to recover the postage from the sender, or shall at his discretion destroy the letter or other article ; and all money or other valuable property which such letter or other article may contain, shall be disposed of in the manner prescribed in the preceding Section with respect to such money or property contained in unclaimed letters.

Refused letters to be re-
turned to Posting Office.

PART V.

Mails on board Inward and Outward bound Vessels.

31. When any vessel arrives by sea at any place within British India at which there is a post Office, the Commander of such vessel shall, as speedily as possible, cause every letter, mail bag, box and packet on board of such vessel, which is directed to that place and not expected from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same ; and if there be on board any letter, mail bag, box, or packet, directed to any other place and not excepted from the exclusive privilege aforesaid, the said Commander shall as speedily as possible report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post Master, and the receipt of such Post Master shall discharge such Commander from all responsibility in respect of such letter or packet. Every Commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding one thousand Rupees.

Commanders of inward-
bound vessels carrying
Mails how to proceed on
arrival.

Penalty.

32. Every

32. Every person being either the Commander of a vessel inward-bound or any one on board such vessel who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody ; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office, shall forfeit for every such letter a sum not exceeding one hundred rupees.

Detention of letters on
board inward-bound vessel.

33. For every letter delivered by the Commander of any ship in conformity with the directions of Section 31 of this Act, the Officer in charge of the Post Office shall pay to the said Commander the sum of one anna ; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the Commander of any vessel on account of the delivery of any letter, unless the claim of such Commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Section 31 and the former part of this Section of this Act, shall extend to any letter or mail bag, or box or packet conveyed by any mail ship or mail steamer recognized as such by the Governor-General of India in Council.

Bounty-money.

34. The Commander of every vessel leaving any place in British India by sea, shall receive on board of such vessel every letter and packet which he shall be required so to receive by any Officer of the Post Office, and shall give a receipt for such letter or packet ; and every Commander of a vessel who shall wilfully disobey any direction contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

Commanders of out-
ward-bound vessels to
receive Mails on board.

PART VI.

Postage Stamps.

35. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act),

Stamped letters to be
considered as pre-paid.

Act), shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

36. The Governor-General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

37. Postage stamps, provided as aforesaid, shall be under the care and management of such Officer or Officers as the Governor-General of India in Council shall from time to time direct: postage stamps shall be considered as stamps issued by Government for the purpose of Revenue, within the meaning of the Indian Penal Code; and all sums of money realized by the sale of such stamps shall be carried in the public accounts to the credit of the Post Office.

38. The Governor-General of India in Council may from time to time make rules for the appointment and government of vendors of postage stamps, and thereby directed how and under what terms and conditions postage stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors; and whether any and what remuneration or discount shall be allowed to them; and how and in what manner, and at what time or times, such vendors shall keep and render their accounts, and pay over the proceeds of any sales made by them, or re-deliver the stamps entrusted to them.

39. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof, shall be punished with a fine not exceeding two hundred rupees in addition to any other proceedings to which they may be liable.

40. Any Government vendor of postage stamps who shall be convicted of refusing, or unnecessarily delaying without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof (the stamp vendor having in his possession for sale sufficient stamps of the description and value required), shall be punished with a fine not exceeding one hundred rupees.

41. Any

41. Any Government vendor of postage stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be punished on conviction with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding one hundred rupees; and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Criminal Court, in the same manner as any penalty under this Act.

PART VII.

Offences against the Post Office.

42. No person shall knowingly post, or send, or tender, or deliver, in order to be sent by the post, any letter, parcel or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall be punished for every such offence with a fine not exceeding two hundred rupees.

43. Every person who shall, for the purpose of defrauding the Post Office Revenue, wilfully certify by writing on any official or other letter or packet delivered at any Post Office for conveyance by post, that which is not true in respect of such letter or packet or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver, for conveyance by post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by post, under colour or pretence of an official communication, any letter, paper, writing or other enclosure of a private nature, shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

44. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a Post Office messenger whilst carrying the Mails, or to detain any carriage or horse upon which the Mails are being carried, or on any pretence to open a packet or mail bag or box in transit from one Post Office to another, and every person who shall be guilty of any of the above-mentioned offences, shall be punished with a fine not exceeding five hundred rupees.

45. Every person who shall fraudulently retain, or wilfully secrete, or make away with or keep or detain, or, being required to deliver up by an Officer of the Post Office, shall neglect or refuse to deliver up a post letter or other article which ought to have been

been

been delivered to any other person, or a mail bag, box or packet containing a letter or other article which shall have been sent by the post, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

46 *Clause 1.*—Every person who shall convey otherwise than by the post, a letter not excepted from the said exclusive privilege conferred on the Government of India by Section 5 of this Act, shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees.

Penalties for breach of privilege conferred by Section 5.

Clause 2.—Every person who shall perform, otherwise than by the post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the post in a clubbed packet, and every person who shall knowingly tender or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the post or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 6.—Every person who shall carry, receive, tender or deliver a letter, or collect letters contrary to the provisions of Section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 7.—Every person who shall be in the practice of committing any of the acts mentioned in this Section, shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

47. Every person employed to convey or deliver any mail bag or box, or any letter or other article sent by post, who shall be guilty, while so employed, of drunkenness, carelessness or other misconduct, whereby the safety of any such bag, box, or letter

Penalty for neglect on the part of persons employed to carry Mails.

or

or other article shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, box, letter or other article; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter or other article, shall be liable to a fine not exceeding fifty rupees; and any person employed to deliver a letter or other article sent by the post, who shall not duly deliver the same, shall, within a reasonable time not exceeding twenty-four hours, report the fact at the Post Office where he received such letter or other article, and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

48. Whoever being in the employ of the Government in the Post Office Department, shall steal, fraudulently appropriate, or wilfully secrete, destroy or throw away any letter or other article sent by post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding seven years, and shall also be liable to fine.

Penalty for stealing, &c., or opening letters, &c., by persons employed in the Post Office.

49. Whoever being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove or cause to disappear any mark or stamp which is on any letter or other article; or shall fraudulently use or place with or upon any letter or other article, any stamp which shall have been removed from any other letter or other article; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

50. Whoever being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office.

51. Whoever

51. Whoever being in such employ as last aforesaid, shall send by the post, or put into any mail bag or box, any unstamped letter or other article upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.

52. Whoever abets, within the meaning of the Indian Penal Code or conceals any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

Penalty for abetting or concealing offences under this Act.

53. Any person, whether a European British subject or not, who shall be guilty of any offence for which according to the provisions of this Act he shall be liable to a fine only, shall be punishable for such offence by any Criminal Court upon summary conviction.

Any person charged with offence punishable with fine only may be summarily convicted.

54. No conviction, order or judgment of any Criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds, but the depositions taken or a copy of them shall be returned with the conviction, order or judgment, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only.
Form of conviction.

55. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Magistrate may refer charge to his Assistant.

56. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Criminal Court or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers. In case any

Fines—how levied.

any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take security by way of recognizance or otherwise. If upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied, if a warrant of distress were issued, any such Officer, by warrant under his hand

may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

57. A share not exceeding one moiety of every fine imposed and recovered under this Act, may be awarded to the informer.

Share of fine to informer.

58. No proceedings shall be taken for the recovery of any fine imposed under the authority of this Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director General of the Post Office, or of a Post Master General, or other Officer specially invested with the powers of a Post Master General.

No proceedings for recovery of fines to be taken without an order.

59. If any public servant who shall be employed in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the Government of India or any local Government with the sale of postage stamps within the dominions of any Foreign Prince or State in India, in alliance with Her Majesty, in which a post shall be established by the Government of India, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done, by any person similarly employed, appointed or entrusted as aforesaid within British India,

Post Office servants committing offences in allied States.

such

such public servant shall be guilty of an offence, and, on conviction thereof, shall be furnished in the same manner as if such act had been done or omitted within British India; and every such person may be tried, convicted and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in Council, to take cognizance of offences committed in such dominions by public servants, or by any Court or Magistrate, or other competent Officer in any part of British India, in the same manner as if the offence had been committed in such part.

60. If any Officer in charge of a Post Office shall suspect that any letter or other article lying for delivery at his Office contains any contraband article, or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the Post Office contains any writing or enclosure in contravention of the provisions of Sections 14, 16 or 43 of

Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

this Act, it shall be lawful for such Officer to summon the person to whom the letter or other article is directed, to attend at the Post Office by himself or agent, within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the Officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed. Provided also, that in all cases the opened letter or other article shall be subsequently delivered to the person to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post Master General. It shall also be lawful for any Officer in charge of a Post Office to refuse to forward any parcel through the Post Office by sea to any foreign port, or to any place not on the Continent of India, unless such parcel be accompanied by a Custom House Pass.

61. Whenever an offence shall be committed in respect of any mail bag or box, or any letter or other article sent by the post, it shall be lawful to lay, in the charge to be preferred against the offender, the property of such mail bag, box, letter, or other article in the Post Master General of the Presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise, that such mail bag, box, letter, or other article was of any value; and in any charge to be preferred

against

against any person employed under the Post Office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the Post Office at the time of committing the offence, without stating further the nature or particulars of his employment.

PART VIII.

Miscellaneous.

62. Letters and other articles on Her Majesty's Service, certified to be such by the signature of any public Officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the post, and the postage due thereon shall be charged to or recovered from the several public departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall, from time to time, direct.

63. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions and restrictions according to which all letters and other articles shall be posted, forwarded, convey and delivered.

64. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any District dawks, zemindaree, thannah or other district dawks, and to declare from time to time what portions of this Act shall be applicable to such dawks, and to persons employed in connexion therewith.

65. The Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the Post Office for conveyance; and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously or fraudulently.

Government not responsible for loss.

Property sent by the post to be laid in the Post Master General.

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.

Preamble.

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

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.

Lender not a partner by advancing money for share of profits.

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.

Remuneration of agents, &c., by profits not to make them partners.

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. XVII 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 establishment of a Public Museum at Calcutta.

Whereas it is expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum ; It is enacted as follows :—

Preamble.

1. The Governor General of India in Council shall cause to be erected at the expense of the Government of India, a suitable building in Calcutta, on or near the site now occupied by the Small Cause Court, to be devoted in part to collections illustrative of Indian Archaeology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical, or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings, and other property.

Building to be erected for Indian Museum.

2. The said building shall be constructed according to such plans and specifications as shall have been approved of and agreed upon by and between the Secretary to the Government of India in the Public Works Department for the time being and the Council of the said Society ; and in case the said Secretary and Council shall be unable to agree with reference to any such

Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.

such

such plans or specifications, the point or points on which they shall so disagree shall be referred to the final decision of the Governor General of India in Council. Such building shall be completed, so far as to be in a condition to receive the collections mentioned in Section 11 of this Act, within five years from the date of the passing of this Act; and the Government of India shall keep the building in repair, and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Indian Museum.

Trustees of the Indian Museum incorporated. 3. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,
the Vice-Chancellor of the University of Calcutta,
the Secretary to the Government of India in the Home Department,
four other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and three other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,
and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist five members thereof.

Trustees empowered to receive bequests, donations and subscriptions. 4. It shall be lawful for the said Body Corporate to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and to hold the same and to lay out such money for the purposes of the said Indian Museum in the improvement and enlargement of the collections deposited in, presented to or purchased for the said Museum, and all such collections shall become the property of the said Body Corporate for the purposes of their Trusts herein mentioned; and the said Body Corporate shall have the exclusive possession, occupation and control, for the purposes of such Trusts, of the said building, other than those portions thereof which upon its completion shall be set apart by the said Body Corporate for the records and offices of the Geological Survey of India, and for the accommodation of the said Society, and the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings and other property.

5. The

Ex-officio Members. 5. The persons for the time being holding the offices respectively mentioned in Section 3 of this Act shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively. In the event of any two of the said offices being held by the same person, it shall be lawful for the Governor General of India in Council from time to time to nominate such other person as to him may seem fit, to be a Trustee under this Act so long as the said two offices shall be held by one person. Provided that when and so often as the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India in the Home Department, or Superintendent of the Geological Survey of India shall also be the President of the said Society, the Council of the Society may nominate any other person being a member of the Society to be a Trustee under this Act so long as such Presidency shall be held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary or Superintendent.

Power to appoint new Trustees. 6. If any of the said Trustees to be nominated by the Governor General of India in Council or by the Council of the said Society, or any Trustee appointed as herein provided, shall die or be absent from India for a period exceeding twelve months, or desire to be discharged, or refuse or become incapable to act, then and in every such case it shall be lawful for the Governor General of India in Council or the Council of the said Society, as the case may be, to appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid, and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Quorum. 7. At all meetings of the said Body Corporate, five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Power to Trustees to make, alter and repeal bye-laws and to appoint officers and servants. 8. It shall be lawful for the said Body Corporate from time to time to make, alter and repeal bye-laws consistent with this Act for the management of the said Museum, for the summoning, holding and adjournment of General and Special Meetings of Members of the Body Corporate, for securing the attendance of the Members at such meetings, for the provision and keeping of minute books and account books, for the compiling of catalogues and for all other purposes necessary for the execution of their Trust. And all officers and servants, salaried or otherwise, employed in the care or management of the Trust property shall be appoint-

ed,

ed, and may be removed or suspended by the said Body Corporate, subject to such regulations and conditions as such Body Corporate shall think proper, and such officers and servants shall be considered public servants within the meaning of the Indian Penal Code.

9. It shall be lawful for the Trustees from time to time, to order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities to be exchanged for manuscripts, books, or other objects of interest, or to direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Trustees may exchange or sell duplicates.

10. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings, acts, and ordinances for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor General of India in Council shall appoint in this behalf accounts of all monies expended by the Trustees during the past twelve months supported by the necessary vouchers. The said report and accounts shall be annually published for general information.

Trustees shall furnish annual reports and accounts.

11. The Council of the said Society shall cause the collections belonging to the Society and illustrative of Indian Archaeology, and the several branches of Natural History, and all additions that may be made thereto, whether before or after the time next hereinafter mentioned, to be removed to and deposited in the said building, at the expense of the Government of India, as soon as the same shall be completed so far as aforesaid.

Asiatic Society to remove their collections to the new building.

12. The said Society shall continue to have the same exclusive property in and control over their said Library, Manuscripts, Maps, Coins, Busts, Pictures and Engravings, which they at present possess, and the Council of the said Society shall have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which shall, upon its completion, be set apart for the accommodation of the said Society and the reception of their Library and other property mentioned in Section 4 of this Act.

The Asiatic Society to retain their Library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set apart for the Society.

13. Every

13. Every article in the collections and additions mentioned in Section 11 of this Act shall be marked and numbered and shall be kept and preserved in the said Indian Museum with such marks and numbers, and an inventory of such articles shall (subject to the provisions contained in Sections 9, 14 and 15 of this Act) be made by the said Society, and, on such articles being deposited as aforesaid, one copy of such inventory shall be signed by the said Trustees, and kept by the said Society, and another copy shall be signed by the Council of the said Society, and kept by the said Trustees. All objects taken in exchange under Section 9 of this Act for, and all monies payable on sale under the same Section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Collections of Asiatic Society to be kept distinguished in the Museum.

14. Until the said building shall be completed so far as aforesaid, the said collections of the said Society and all additions that may be made thereto in the meantime shall remain in the house in which they are at present, but under the care of such persons as by the Trustees shall be approved and nominated in this behalf, with such salaries and allowances as, subject to the approval of the Government of India, the Trustees shall limit and direct; and the said collections and additions shall be open to all persons desirous to view the same, under such rules as by the said Trustees shall be established, and the said salaries and allowances shall be paid by the Government of India.

Custody of the collections of the Asiatic Society until completion of the new building.

15. In the event of the Trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in Section 11 of this Act shall become the property of the said Society or their assigns; and the said Society shall vacate the portions of the said building which shall have been set apart as in the twelfth Section of this Act is mentioned; and such portions shall then become the property of the Government of India, anything in this Act contained to the contrary notwithstanding.

In case of determination of Trust, Asiatic Society may reclaim their collections.

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;
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 tolabs 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.

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.

Preamble. 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:—

Short Title. 1. This Act may be cited as “The Native Converts’ Marriage Dissolution Act, 1866.”

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

3. In this Act—

Interpretation of terms. “Native Husband.” “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.” “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.” “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”

"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.

Number. 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.

Court in which suit shall be brought. 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.

Suit to be commenced by verified petition. 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.

On service of petition, citation issued to respondent. 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.

Form of citation. 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.

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. Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act. 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 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

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.

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.

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 condition

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

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 inter-
rogatories, 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 on the

(Signed) G. H.

ACT No. XXII 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 extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimulgerry, and Aurungabad.

Whereas it is expedient to extend the provisions of the Indian Marriage Act, 1865, to the Christian British subjects of Her Majesty within the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimulgerry, and Aurungabad ; It is enacted as follows :—

1. From and after the passing of this Act, the Indian Marriage Act, 1865, shall, so far only as regards Christian British subjects of Her Majesty, extend to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimulgerry, and Aurungabad.

Indian Marriage Act, 1865, to extend to Christian British subjects in the Hyderabad Assigned Districts, &c.

ACT No. XXIII OF 1866.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 17th May 1866.)

An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

WHEREAS the twenty-second Section of the Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated the 28th December 1865, is as follows :—“ And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have criminal jurisdiction at the date of the publication of these presents ;” And whereas it is expedient to correct the two clerical errors in such section which are hereinbefore indicated by italics : it is hereby enacted as follows :—

Clause substituted for Section 22 of revised Letters Patent of High Court of Bombay.

1. In lieu of the said recited section, the following shall be substituted :—

“ And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents.”



ACTS OF THE GOVERNMENT OF MADRAS.

The following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General on the 31st January 1866, and is hereby promulgated for general information:—

MILITARY CANTONMENTS ACT.

ARRANGEMENT OF SECTIONS.

Section.

1. Madras Act, No. IV of 1865, repealed.
2. Interpretation.
Section.
Number.
Gender.
3. Criminal jurisdiction of a Cantonment Magistrate.
4. Cantonment Magistrate to be deemed a Magistrate in charge of a Division of a District.
5. Assistant Cantonment Magistrate.
6. Punishment for breaches of standing orders or of special duties.
7. Small Cause Courts may be established in Cantonments.
8. Act XI of 1865, to apply to all such Courts.
9. Act III of 1859 and Act XI of 1841 suspended in Cantonments where Cantonment Magistrates are made Small Cause Judges.
10. Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge up to fifty Rupees.

11. Cantonmen

Section.

11. Cantonment may be declared a Sub-District under Registration Act.
12. Act XXIV of 1859, applicable to Police employed in Military Cantonments.
Administration of Police within Cantonments.
13. Extension of Section 48 of Act XXIV of 1859, to Military Cantonments.
14. Soldiers or Public Followers serving with the Army not to be taken out of the service for debts less than Rupees 300, or for breach of agreement.
15. Arrest in certain Military Cantonments how to be conducted.
Not to apply to summonses, &c.
16. Service and execution, through Cantonment Magistrate, of process issued by Commanding Officers.
17. Rules and Regulations to provide for certain matters specified.
18. Rules to be confirmed by Governor General in Council.
19. What rules may provide for.
20. Trial of breaches of such Rules and Regulations.
21. Levy of fines imposed.
22. Imprisonment in case of amount not being recoverable as above.
23. Imprisonment to be where.
24. Prosecutions, &c., under other Regulations, &c., not barred by this Act.
25. Limits of Cantonments and bazaars how to be defined and established.
Power to alter the limits.
26. For protection of health, Rules and Regulations made under Clause 7, Section 19, may be extended beyond limits of Cantonments for certain purposes.
27. In such case, penalties may be imposed for breach of Rules in extended limits.
28. Courts, &c., to take judicial notice of Rules passed under this Act.
29. Effect of Rules, &c., passed under Section 17 of this Act in respect of Regulations, &c., previously in force.
Proviso.
30. Unauthorized sale of liquor to Military persons in Cantonments, how punishable.
31. Consequence of second conviction of offence under last preceding Section.
32. Camp-followers and others having possession of liquor beyond certain quantity without permit, how punishable.
33. Arrest of persons committing offence under Section 31 or 32.

34. Confiscation

Section.

34. Confiscation of liquor in respect of which conviction may be had, or which may be in possession of party convicted.
35. Thing seized under Act may be detained until party charged with offence is acquitted.
How to be disposed of.
36. Saving of articles sold or supplied for medicinal purposes.
37. Act not to interfere with jurisdiction of Courts-Martial, &c.
Proviso.
38. Acts done by Cantonment Magistrates and others before passing of this Act legalized.
39. What authority to exercise powers of High Court in respect of Small Cause Courts established in a Non-Regulation place or places out of British India.
40. Commencement and scope of Act.
41. Repeal of the Act and Regulation named in the Schedule.

MADRAS

ACT No. I OF 1866.

An Act to repeal Madras Act No. IV of 1865, and to make provision for the Administration of Military Cantonments in the Presidency of Fort Saint George.

WHEREAS in Madras Act IV of 1865, (*An Act to make provision for the administration of Military Cantonments in the Presidency of Fort Saint George*),

Preamble.

reference is made to Act XLII of 1860, and it is enacted that the Courts of Small Causes, the establishment whereof is therein provided for, shall be deemed to be established under the provisions of the said Act XLII of 1860, and whereas the said Act XLII of 1860 had been repealed by Act 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 Court of Judicature*) before the aforesaid Act IV of 1865 had received the assent of the Viceroy and Governor General, and whereas it is expedient to repeal the said Act IV of 1865, and to substitute an Act in lieu thereof, for regulating the administration of Civil and Criminal Justice and the superintendence of Police and Conservancy, for protecting the public health within the limits of Military Cantonments in the Presidency of Fort Saint George, and for laying down local Rules and Regulations to be enforced within such limits, it is enacted as follows:—

Madras Act No. IV of 1865 repealed.

1. Madras Act, No. IV of 1865, is hereby repealed.

2. The

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :—

Interpretation.

"Section."

The word "Section" denotes a Section of this Act.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

Criminal jurisdiction of a Cantonment Magistrate.

3. When any person shall be invested by the Government, under the provisions of Section 23 of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any Military Cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such Cantonment shall, subject to the control of the Magistrate of the District in which such Cantonment is situate, exercise the powers of a Magistrate as defined in the said Code, for the purpose of disposing of all cases arising within such Cantonment which the Magistrate of the District might dispose of, and for the commitment, for trial before the Court of Session of the District or place in which such Cantonment is situated, of any person charged with any offence triable before the Court of Session, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent, under the said Code of Criminal Procedure, to award.

Cantonment Magistrate to be deemed a Magistrate in charge of a Division of a District.

4. The Cantonment Magistrate shall be considered a Magistrate in charge of a Division of a District within the meaning, and for the purposes, of the Code of Criminal Procedure.

Assistant Cantonment Magistrate.

5. When any person shall be invested by the Government, under the provisions of Section 23 of the Code of Criminal Procedure, with the powers of a Subordinate Magistrate of the first or second class within the limits of any Military Cantonment, such person shall be styled the Assistant Cantonment Magistrate, and shall be subject to the Rules laid down for Subordinate Magistrates in the said Court.

Punishment for breaches of standing orders or of special duties.

6. All public followers attached to, or serving with, any part of the Army and receiving public pay drawn by an Officer in charge of any Department appertaining to the Army, and all Artificers and laborers belonging to the Army or Military Arsenals, or to the Commissariat or Medical Department, shall be liable

liable to be tried by the Cantonment Magistrate or by the Assistant Cantonment Magistrate, for all breaches of Standing Orders, or of their respective duties, and shall be punished with imprisonment of either description as defined by the Indian Penal Code not exceeding one month, or with fine not exceeding one hundred Rupees, or with lashes not exceeding fifty with a cat-of-nine tails, or shall be liable to any two of the above punishments.

7. The Government may, within the limits of any Military Cantonment, establish a Court of Small Causes for the trial of suits of the nature described in Section 6 of Act 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*), and the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established within his jurisdiction. The Government shall, from time to time, declare the pecuniary limit of the jurisdiction of every Court established under this Section, but such limit shall in no case exceed five hundred Rupees.

8. Every Court of Small Causes established under this Act shall be deemed to be a Court established under the said Act XI of 1865, and all the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

9. Whenever a Court of Small Causes is established in any Military Cantonment under the provisions of Section 7, the jurisdiction exercised in such Cantonment by any Officer under Act III of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers-Registrars of Deeds*), shall cease and determine; and Act XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) shall cease to have any effect within the limits of such Cantonment; provided that nothing in this Act contained shall be held to affect so much of the said Act XI of 1841 as declares that, in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand; provided also, that nothing in this Act contained shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Victoria, Cap. 3, or the corresponding

responding Section in any other Statute for the time being in force, for punishing Mutiny and Desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer under any such Statute to assemble such Courts.

10. The Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes, to try suits instituted in any Court which is established under Section 7: provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty Rupees.

Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge up to fifty Rupees.

11. Any Military Cantonment may be declared by the Government to be a Sub-District for the purposes of Act XVI of 1864, (*to provide for the Registration of Assurances*). The Cantonment Magistrate of any Cantonment so declared shall be the Deputy Registrar thereof.

Cantonment may be declared a Sub-District under Registration Act.

12. The Police Force employed in any Military Cantonment shall be deemed to be part of the General Police Force within the meaning of Section 8, Act XXIV of 1859, (*for the better Regulation of Police within the Territories subject to the Presidency of Port Saint George*), and all the provisions of the said Act shall be applicable to such Force. The Administration of the Police within the limits of any Cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent, subject to the general control and direction of the Commanding Officer of such Cantonment.

Act XXIV of 1859 applicable to Police employed in Military Cantonments.

Administration of Police within Cantonments.

13. The Government may extend Section 48 of the said Act XXIV of 1859 to any Military Cantonment situate in the Territories under such Government.

Extension of Section 48 of Act XXIV of 1859 to Military Cantonments.

14. No Soldier or other Public Follower serving with any part of the Army, and receiving public pay drawn by an Officer in charge of any Department appertaining to the Army other than a Commissioned Officer, shall be liable by any process whatever to be taken out of Her Majesty's Service by any writ, summons, warrant, order, judgment, execution, or any process whatsoever, issued by, or by the authority of, any Court of Law, or any other authority whatsoever, for any original debt not amounting to Rupees 300, or for the breach

Soldiers or Public Followers serving with the Army not to be taken out of the service for debts less than Rupees 300, or for breach of agreement.

of

of any contract, covenant, agreement, or other engagement whatever by parole or in writing, and all writs, summonses, warrants, orders, judgments, execution, and other process on account of any of the matters for which it is herein declared that a soldier or other person as aforesaid is not liable to be taken out of Her Majesty's Service, shall be utterly illegal, and null and void, to all intents and purpose;— and any Judge of any such Court may examine into any complaint made by a soldier or by his superior officer, and by warrant under his hand discharge such soldier, without fee, he being shown to have been arrested contrary to the intent of this Act, and shall award reasonable costs to such complainant, who shall have for the recovery thereof the like remedy as would have been applicable to the recovery of any costs which might have been awarded against the complainant in any judgment or execution as aforesaid, or a writ of *Habeas Corpus ad subjiciendum* shall be awarded or issued, and the discharge of any such soldier out of custody shall be ordered thereupon: provided that any plaintiff, upon notice of the cause of action first given in writing to any soldier or left at his last quarters, may proceed in any action or suit to judgment, and have execution other than against the body or Military necessities or equipments of such soldier.

15. 1st.—Whenever it may be necessary to execute, within the limits of a Military Cantonment, any process issuing from any Civil or Criminal Court, against any person of the Military class, or attached to, or serving with the Army, the Officer charged with the execution of such process of arrest shall carry it to the Commanding or Staff Officer of the Regiment or Detachment, or to the Officer in charge of the Department of the Army to which the person against whom the process is issued may belong, and such Officer shall immediately endorse it with his signature, and use his utmost endeavours to cause the person therein named, if within the limits of the Cantonment, to be served or delivered up, according to the exigency of the process, to the Officer charged with the execution thereof unless such process shall have been issued in contravention of the preceding Section.

Arrest in certain Military Cantonments how to be conducted.

2nd.—But nothing contained in the foregoing clause of this Section shall be construed to prevent the direct service, in the usual way, of notices, summonses, subpoenas, or other processes on any person not Military, or attached to or serving with the Army, or to require any communication to the Officer designated in the foregoing clause, or any endorsement by him on such notice or process not involving personal arrest.

Not to apply to summonses, &c.

16. The

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ACT No. I of 1866.

16. The Commanding Officer of a Cantonment may send any process requiring service or execution by any means not immediately at his disposal to the Chief Police Officer in the Cantonment, for service or execution through the Cantonment Police, and it shall be the duty of the said Chief Police Officer to serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

17. The Government shall have power to make Rules and Regulations not inconsistent with the provisions of this Act or of any other law in force, to provide within the limits of any Military Cantonment for the matters hereinafter mentioned, and, from time to time to repeal, or alter such Rules and Regulations. The Rules and Regulations made under this Section may be general for all Military Cantonments in the Territories under the Government of Fort Saint George, or special for any one or more of such Cantonments, according as the Government shall direct.

18. No Rule or Regulation made or altered under the last preceding Section shall have effect until the same shall have been confirmed by the Governor General of India in Council. A copy of every such Rule and Regulation when so confirmed, in English and in the Vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Government or the Commanding Officer may direct.

19. The Rules and Regulations made under Section 17, may provide.

1st.—For regulating, in cases in which the land within the limits of the Cantonment is the property of Government and the occupation and use of which by private persons is only permissive, the condition under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed.

2nd.—For maintaining proper registers of immovable property within the limits of the Cantonment, and for providing for the registration of transfers of such property.

3rd.—For

3rd.—For regulating the manner in which lands and houses within the limits of the Cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of Military Officers.

4th.—For regulating the management and expenditure of any funds made available by law, or by the Government, for the purpose of public improvements within the limits of the Cantonment, or for carrying out any Rules and Regulations passed under this Section, and the appointment of the necessary servants and establishments.

5th.—For the definition and prohibition of public nuisances.

6th.—For the maintenance generally of the Cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of conservancy and drainage; for the regulation and inspection of public and private necessities, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited; of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations.

7th.—For inspecting and controlling houses of ill-fame, and for preventing the spread of venereal disease.

8th.—For the supervision and regulation of public wells, tanks, springs, or other sources from which water is or may be made available for public use.

9th.—For the execution and promotion of works of public utility and convenience.

10th.—For the registration of births, marriages, and deaths, and for making and recording observations and facts important for the public health and interests.

11th.—For the imposition of penalties on persons convicted of the breach of any Rule or Regulation made under Section 17, and for declaring what persons shall make the preliminary inquiry into, or take cognizance of, any breach of such Rules and Regulations, and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty Rupees, or imprisonment for eight days with or without labor.

20. Breaches of any Rule or Regulation made under Section 17 shall be triable by the Cantonment Magistrate when there is such an Officer; but the Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to

Trial of breaches of such Rules and Regulations.

to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate. The Magistrate of the District shall in regard to such cases, have no control over the Cantonment Magistrate, or over any Assistant Cantonment Magistrate, or any other person invested with such powers as herein aforesaid.

21. In every case in which an offender is sentenced to a fine for the breach of any Rule or Regulation made under Section 17, the amount may, in case of non-payment, be levied by distress and sale of any movable property of the offender which may be found within the limits of the Cantonment.

Levy of fines imposed.

22. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labor for any term not exceeding one month.

Imprisonment in case of amount not being recoverable as above.

23. The imprisonment under Section 19 or Section 22 may be, if without labor, in the Civil Jail, and if with labor, in the Criminal Jail of the District.

Imprisonment to be where.

24. Nothing in this Act nor in any Rule or Regulation made under Section 17 shall prevent any person from being prosecuted under any other Regulation or Act for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

Prosecutions, &c., under other Regulations, &c., not barred by this Act.

25. It shall be lawful for the Government to declare, that any place in which any detachment of the Army may be quartered shall be a Military Cantonment within the meaning of this Act, and the limits of such Cantonment, including the Military bazaars attached thereto, shall be marked out, and plans thereof shall be prepared, and whenever the Government shall declare any place to be a Military Cantonment, a Notification of such declaration and of the limits of the Cantonment shall be published in the Fort Saint George and District Gazettes. Provided always that it shall be lawful for the Government from time to time to alter the limits of such Cantonment, or to declare that it shall no longer be a Military Cantonment, and thereupon such alteration or declaration shall be notified as above directed.

Limits of Cantonments and bazaars how to be defined and established.

Power to alter the limits.

26. Whenever

26. Whenever it shall appear necessary for the protection of the health of the Troops in any Military Cantonment, it shall be lawful for the Governor in Council to extend to any place outside the limits of such Military Cantonment, and in the vicinity of such Cantonment, all or any of the Rules and Regulations made for such Cantonment under Clause 7 of Section 19, and to make any additional Rules and Regulations under the said Clause, and to define the limits around such Cantonment within which such Rules and Regulations or additional Rules and Regulations shall be in force. Provided always that such additional Rules and Regulations shall be subject to the confirmation of the Governor General of India in Council.

For protection of health, Rules and Regulations made under Clause 7, Section 19, may be extended beyond limits of Cantonments for certain purposes.

27. When such Rules and Regulations, with any additional Rules or Regulations made as above, shall be extended under the last preceding Section to any place outside the limits of such Cantonment, it shall be lawful for the Governor in Council to provide, in the manner described in Clause 11 of Section 19, for the imposition of penalties for the breach of such Rules and Regulations, and for prescribing the manner in which, and the persons by whom, breaches of such Rules and Regulations shall be inquired into or be cognizable.

In such case, penalties may be imposed for breach of Rules in extended limits.

28. All Courts and Magistrates shall take judicial notice of all Rules and Regulations made under Section 17 or Section 26.

Courts &c., to take judicial notice of Rules passed under this Act.

29. Whenever, in any Military Cantonment, Rules and Regulations have been made under Section 17, so much of any Regulation or Act as may be held to empower the Commanding Officer to make local Regulations regarding matters other than Military shall cease to have any effect in such Cantonment, and all local Regulations for any Military Cantonment, which may have been made before the promulgation of the Rules and Regulations for such Cantonment made under the said Section 17, shall cease to have any effect. Provided that nothing in this Section shall be held to interfere with any Military authority vested in the said Commanding Officer under the Articles of War.

Effect of Rules, &c., passed under Section 17 of this Act in respect of Regulations, &c., previously in force.

Provided.

30. If within any Military Cantonment, or within any limits around such Cantonment prescribed by the Government, any person not amenable to the Articles of War, or any Sutler or Camp-follower, shall knowingly barter, sell, or supply, or offer or attempt to barter, sell, or supply any spirituous liquor, wine,

Unauthorized sale of liquor to Military persons in Cantonments, Low punishable.

or

or intoxicating drug, to or for the use of any European Soldier, or to or for the use of any European or Eurasian being a Camp-follower or a Soldier's wife, without a written license from the Officer Commanding, or from some person having sufficient authority from the Officer Commanding to grant such license, the person so bartering, selling, or supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable, on conviction, to a fine not exceeding one hundred Rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labor, for any period not exceeding three months, or in lieu of such fine or imprisonment to the punishment of whipping, as prescribed by Section 10 of Act VI of 1864 (*to authorize the punishment of whipping in certain cases*), subject to all the provisions of that Act.

31. If any person convicted of an offence under the last preceding Section shall be again convicted of an offence under that Section, any spirituous liquor, wine, or intoxicating drug within such Cantonment or limits, which, at the time of the commission of such subsequent offence, shall belong to, or be in the possession of, such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

32. If any Camp-follower or Military Pensioner, or the wife or the widow of any Soldier, Camp-follower, or Military Pensioner shall, within such Cantonment or limits, remove, convey, or have in his or her possession any quantity of spirituous liquor or wine exceeding one imperial quart, without a permit to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act, every such person shall be liable, upon conviction, to a fine not exceeding fifty Rupees, and for any subsequent offence to a fine not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three calendar months: provided that nothing in this Section contained shall apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

33. If any person subject to the provisions of this Act shall be found committing any offence contrary to Section 31 or Section 32 of this Act, any Police Officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same and anything used for the purpose of removing, conveying, or

or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before the Cantonment Magistrate or other Officer having jurisdiction to punish the offender.

34. In case of a conviction for any offence under Section 31 or Section 32 of this Act, the Cantonment Magistrate or other Officer may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing, or concealing the same, or any part thereof, to be confiscated; and such Magistrate may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the Officer who shall have apprehended the offender or seized any of the goods adjudged to be confiscated.

35. Any thing seized under Section 33, in respect of which any person shall be charged with an offence, may be ordered to be detained until the person in whose possession the same shall have been seized shall be convicted or acquitted of the offence charged. If the person shall be acquitted, any thing so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by the Cantonment Magistrate or other Officer to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

36. Sections 30 to 35, inclusive, shall not apply to the sale or supply of any article for medicinal purposes, by recognized Medical Practitioners, Chemists, or Druggists.

37. Nothing in this Act shall interfere with the jurisdiction of Courts Martial, or of Commanding Officers of Cantonments, or of Regiments, Corps, or Detachments, under Act XXIX of 1861, (*to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army*), or under Act V of 1863 (*to amend Act XXIX of 1861*), or with the provisions of any Statute for punishing mutiny and desertion of Officers and Soldiers in the Service of Her Majesty, and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences. Provided that, when a Cantonment Magistrate or other Officer not being the Commanding Officer shall have

Confiscation of liquor in respect of which conviction may be had, or which may be in possession of party convicted.

Thing seized under Act may be detained until party charged with offence is acquitted.

How to be disposed of.

Saving of Articles sold or supplied for medicinal purposes.

Act not to interfere with jurisdiction of Courts Martial, &c.

Proviso.

Consequence of second conviction of offence under last preceding Section.

Camp-followers and others having possession of liquor beyond certain quantity without permit, how punishable.

Arrest of persons committing offence under Section 31 or 32.

have been vested by the Government with power within the limits of any Military Cantonment to dispose of cases under any Rule or Regulation made under Section 17, it shall not be competent to the Commanding Officer to exercise the powers described in Article 84 of the said Act, XXIX of 1861, in respect of any case arising under such Rule or Regulation, when such Rules and Regulations have been passed for such Cantonment under Section 17, and penalties shall have been laid down for their infringement. The said Rules and Regulations shall be held to be the Rules and Regulations mentioned in the said Article 84 of the said Act XXIX of 1861, and so much of the said Article as declares the penalties which may be inflicted for breach of Cantonment Regulations shall cease from that time to have any effect in such Cantonment.

38. All acts done previously to the passing of this Act by Cantonment Joint Magistrates, Assistant Cantonment Joint Magistrates, or Judges of Courts of Small Causes appointed under the provisions of the Madras Act IV of 1865, or by persons acting under their authority or otherwise in any Military Cantonment, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

Acts done by Cantonment Magistrates and others before passing of this Act legalized.

39. If a Court of Small Causes shall be established under Section 7 in any Military Cantonment in the territories not subject to the General Regulations, the Governor in Council shall declare what authority shall exercise the powers vested in the High Court by the provisions of the said Act XI of 1865.

What authority to exercise powers of High Court in respect of Small Cause Courts established in a Non-Regulation place or places out of British India.

40. This Act shall come into operation only in such Military Cantonments, and from such dates as the Governor in Council shall declare by Notification in the Fort Saint George and District Gazettes.

Commencement and scope of Act.

41. From the date at which this Act shall have come into operation in any Military Cantonment, and within the limits of such Cantonment, the Regulation and the Act named in the Schedule shall cease to have effect to the extent therein stated, except so far as they repeal the whole or any part of any other Regulation, and except as to any act or offence which shall have been done or committed, or as to any fine or penalty which shall have been incurred, or as to any proceedings which shall have commenced before this Act shall have been in force.

SCHEDULE.

SCHEDULE.

Number and date of Act or Regulation.	Title.	Extent of Repeal.
Regulation VII of 1832...	A Regulation for rescinding Regulation VI of 1821, and Regulation IV of 1827, and in lieu thereof enacting Rules for the better order and discipline of Military bazaars, the more effective administration of Justice and of the Police at the Stations where such bazaars were established, and at certain other Military Stations, and in Military Forces in the field; the extension of the powers of Courts-Martial; and the more effectual prevention of the undue use of Spirituous and Fermented Liquors and Intoxicating Drugs by the European Troops under this Presidency.	The whole Regulation.
Act XVIII of 1853...	An Act for regulating the sale of Spirituous Liquors, &c., in Cantonments.	The whole Act, so far as it relates to the Madras Presidency.

(By Order.)

JOHN D. MAYNE,

Assistant Secretary to Government,

Legislative Department.

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:—

Power to refer to High Court questions arising previous to the hearing of suits or in the execution of decrees or orders.

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

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.

THE ADMINISTRATOR GENERAL'S ACT, 1867.

ARRANGEMENT OF SECTION.

PART I.

Preliminary.

1. Short title.
2. Repeal of Acts.
3. Interpretation clause.

PART II.

Of the Office of Administrator General.

4. Designation of the Administrators General in the three Presidencies.
5. Appointment, suspension, and removal of Administrators General.
6. Qualification of future and continuance of existing incumbents.
7. Administrator General not to be deemed an officer of High Court.
8. Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrators General.
9. No Administrator General to be Ecclesiastical Registrar.
Administrator General not to hold any other office without sanction of Government.
Proviso.

10. Penalty

10. Penalty for trading.
Exception.
11. Security to be given by Administrator General.
Substitution of security or sureties.
12. No security nor oath to be required by Court from Administrator General.
13. Appointment of officiating 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. As regards Administrator General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Sections 187 and 190 of Indian Succession Act.
15. Administrator General entitled to letters of administration, unless granted to next-of-kin of deceased.
Administrator General entitled in preference to creditor, non-universal legatee or friend.
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.
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.
18. 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.
Rate of commission payable in such case.

19. Probate

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.
21. Administrator General in certain cases to secure and distribute the estate and effects of soldiers.
Proviso.
22. Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.
23. After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.
Exception.
Proviso.
24. What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.
25. 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. Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.
27. 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. Letters of administration to be granted to Administrator General in virtue of his office.
Authority given by such letters.

29. Grant

29. Grant of probate to Administrator General named as executor by virtue of his office.
30. Transfer by private executor or administrator of interest under probate or letters of administration.
31. Vesting of estates, &c., in successor of Administrator General.
- (b) *Suits by and against the Administrator General.*
32. Administrator General to sue and be sued in his representative capacity by his name of office.
Suit not to abate by death, &c.
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33. Creditors' suits against Administrator General.
- (c) *Grant of certificates by the Administrator General.*
34. In what case Administrator General may grant certificate.
No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.
35. Grant of certificate to creditors.
Proviso.
36. Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.
37. 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.
38. Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.
39. Fee for certificate.
- (d) *Expenses of the Administrator General's Establishment.*
40. Administrator General to defray expenses of establishment, and all other charges not expressly provided for.
- (e) *Accounts and Schedules.*
41. Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.
42. Administrator General to furnish half-yearly schedules.
Schedules to be filed and published.

PART VI.

PART IV.

Of the Audit of the Administrator General's Account.

43. Government to appoint auditors.
44. Auditors to examine schedule, and report to Government.
45. Auditors to have power to summon witnesses and to call Books, &c.,
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46. Costs of preparing schedules, &c., how to be paid.
47. Auditors to report specially to Government if accounts appear not correct.
48. Proceedings upon such report.
49. Costs of reference, &c., how to be defrayed.

PART V.

Of the Commission of the Administrator General.

50. Commission to be received by Administrators General
51. Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General.
Administrator General only entitled to a commission of three per cent. on gross amount of such property.
52. What expenses, &c., commission is to cover.
How payable.
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53. Commission of the Administrator General of Bengal may be raised and again reduced.
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PART VI.

PART VI.

Miscellaneous.

55. Government may make and alter rules and orders consistent with this Act—
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56. Publication of orders, &c.
57. Orders of the Court to have same effect, and to be executed in same manner as a decree.
58. Penalty for false evidence.
59. Assets unclaimed for fifteen years to be transferred to Government.
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60. Mode of proceeding by claimant to recover principal money so transferred.
61. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.
62. Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.
63. Indian Succession Act and Indian Companies' Act not to affect Administrator General.
64. Power to appoint a Deputy Administrator General for the North-Western Provinces and the Panjab, Oudh, and the Central Provinces.
 Schedule of Acts repealed.

Act

ACT N^o. 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." "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." "District Judge" means the Judge of a Principal Civil Court of original jurisdiction:

"Letters of Administration." "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." "Officer" means a Commissioned Officer of Her Majesty's Army, or of Her Majesty's Indian Army:

"Soldier." "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." "Assets" includes immoveable as well as moveable property.

Gender. Number. 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.

Appointment, suspension, and removal of Administrators General.

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.

Administrator General not to be deemed an officer of High Court.

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

No Administrator General to be Ecclesiastical Registrar.

Presidency

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

No security nor oath to
be required by Court from
Administrator General.

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.

Appointment of officiating
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.

As regards Administra-
tor General, High Court at
Presidency town to be
deemed a Court of compe-
tent jurisdiction within
meaning of Sections 187
and 190 of Indian Succes-
sion Act.

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.

Administrator General
entitled to letters of admin-
istration, unless granted to
next-of-kin of deceased.

Administrator General
entitled in preference to
creditor, non-universal le-
gatee, or friend.

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

When administration of
estates of persons other
than Hindus, Muhamma-
dans or Buddhists is to be
by Administrator General.

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 not, shall have died leaving assets within the local limits of the

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.

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 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.

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.

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 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.

Rate of commission payable in such case.

19. If in the course of proceedings to obtain letters of administration under the provisions of Section 16 or Section 17 of this Act, any executor appointed by a Will of the deceased shall appear according

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

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.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

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

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

and

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.

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.

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.

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.

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 transferree as aforesaid, shall be transferred to and vested in his successor in office.

(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

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

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

Administrator General to furnish half-yearly Schedules.

be

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

Auditors to have power to summon witnesses and to call for books, &c.

Penalty for non-attendance.

Costs of preparing schedules, &c., how to be added.

Auditors to report specially to Government if accounts appear not correct.

Proceedings upon such report.

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.

Costs of reference, &c., how to be defrayed.

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. :—

Commission to be received by Administrators General.

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

Section 50 not to apply to property of Officers and Soldiers dying on service, which shall come to hands of Administrator General.

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.

Administrator General entitled to a commission of only three per cent. on gross amount of such property.

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

What expenses, &c., commission is to cover.

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.

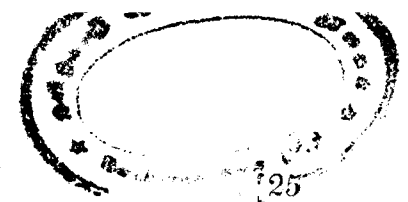
How payable.

Commission retained to be deemed a distribution.

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

Commission of the Administrator General of Bengal may be raised and again reduced.

of



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.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso.

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 colligendu 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.

Request 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 of

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.

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.

Proviso.

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.

Mode of proceeding by claimant to recover principal money so transferred.

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

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

Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.

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.

63. Nothing contained in the Indian Succession Act, 1865, or the Indian

Indian Succession Act and Indian Companies' Act not to affect Administrator General.

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.

64. It shall be lawful for the Governor General of India in Council to appoint

Power to appoint a Deputy Administrator General for the North-Western Provinces and the Punjab, Oudh and the Central Provinces.

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.

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”

"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 ;

Number.
Gender.

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.

Repeal of Act XI of 1835.

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.

Every printed book or paper to bear name of printer and publisher.

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 :

Rules as to publication of printed periodicals containing public news.

(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.

Authentication and deposit of declaration.

Inspection and copies of declaration.

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.

Office copy of declaration to be prima facie evidence.

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 which

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 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.

Receipt and payment for copies.

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.

Disposal of the three copies.

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.

Penalty for printing contrary to rule in Section 3.

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.

Penalty for keeping press without making declaration required by Section 4.

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,

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 NO. 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:—

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. Deputy Commissioners empowered to distribute business in Courts subordinate to them.

2. Nothing in this Act shall apply to Courts of Small Causes. Nothing in Act to apply to Small Cause Courts.

3. This

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.

This Act to be read with Acts Nos. XIV and XIX of 1865 and 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.

Validity given to process, &c., signed by Magistrates in Petty Sessions.

2. All

[PRICE 6 PIES.]

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.

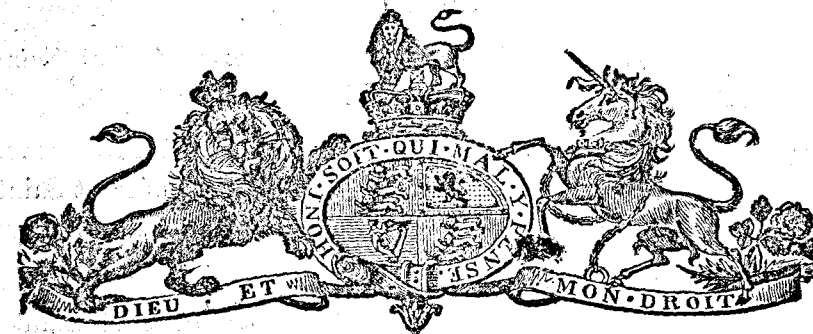
3. It shall be lawful for the High Court of Judicature for the said Provinces to frame rules consistent with this Act and with the Code of Criminal Procedure, for the conduct of business transacted by Magistrates sitting together in manner aforesaid, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*.

Act may be extended.

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.

FORT ST. GEORGE GAZETTE,
SUPPLEMENT.

FRIDAY EVENING,
APRIL 12, 1867.



ACTS OF THE GOVERNMENT OF MADRAS.

THE following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General on the 21st March 1867, and is hereby promulgated for general information:—

MADRAS GENERAL CLAUSES ACT, 1867.

ARRANGEMENT OF SECTIONS.

SECTIONS.

1. Words defined in Penal and Criminal Procedure Codes to be taken in the same sense.
2. Definition of "Magistrate of Police" and "Town of Madras."
3. Repeal of any Act not to revive laws repealed by such Act.
4. Matters done under Act before its repeal to be unaffected.
5. Acts to come into operation from date notified in Gazette.
6. Judicial notice to be taken of Acts.
7. Recital of public fact in Madras Act to be *prima facie* evidence of truth of fact.
8. Short title.

MADRAS.

MADRAS

ACT No. I OF 1867.

An Act to shorten the language used in Acts of the Governor of Fort Saint George in Council, and to make certain provisions relating thereto.

WHEREAS it is expedient to enact once for all certain definitions of terms usually employed in the Acts of the Governor of Fort Saint George in Council, and to make certain other provisions regarding such Acts: it is enacted as follows:—

1. Whenever in any future Act of the Governor of Fort Saint George in Council, any word or expression shall be employed which has been defined in Chapter II of the Indian Penal Code, or in Chapter I of the Code of Criminal Procedure, such word or expression shall be taken to have the meaning assigned to it in those Chapters, unless it be otherwise provided by the Act, or unless there be something either in the subject or context repugnant to such construction.

2. *First.*—The words “Magistrato of Police” shall denote any person exercising the powers of a Magistrate of Police, within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras for the time being.

Second.—The words “Town of Madras” shall denote such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

3. Where any Act repealing in whole or in part any former enactment is itself repealed, such last repeal shall not revive the enactment, or any of the provisions thereof before repealed, unless words be added reviving such enactments or provisions.

4. The repeal of any Act or Regulation shall not affect any act which shall have been done, or any offence which shall have been committed, or any fine or penalty which shall have been incurred, or any proceedings which shall have been commenced, before the repealing Act shall have come into operation.

5. Where in any future Act of the Governor of Fort Saint George in Council no time is mentioned at which the same shall come into operation, such Act shall take effect from such date as the Governor in Council may notify by publication in the *Fort Saint George Gazette*.

6. Within

6. Within the territories subject to the Government of Fort Saint George all Courts of Justice, whether exercising civil or criminal Jurisdiction or any other jurisdiction whatsoever, and all persons having by law or consent of parties authority to take evidence, shall take judicial notice of all Acts heretofore made or hereafter to be made by the Governor of Fort Saint George in Council, whether the same be of a public or of a private nature, and shall also take judicial notice of any publication by the Governor of Fort Saint George in Council under the preceding Section.

7. Any recital contained in any Act of the Governor of Fort Saint George in Council heretofore made or hereafter to be made of any fact of a public nature, shall be deemed before all such Courts and persons, as in the immediately preceding Section mentioned, to be *prima facie* evidence of the truth of the fact recited.

8. This Act may be cited for all purposes as “the Madras General Clauses Act, 1867.”

(By Order.)

P. O’SULLIVAN,
Acting Assistant Secretary to Government,
Legislative Department.



ACTS OF THE GOVERNMENT OF MADRAS.

THE following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General on the 10th June 1867, and is hereby promulgated for general information:—

MADRAS.

ACT No. IV OF 1867.

An Act to repeal Madras Act I of 1863 (to enable Subordinate Magistrates of the Second Class to take cognizance of offences under Section 174 of the Indian Penal Code).

WHEREAS Madras Act I of 1863 (*to enable Subordinate Magistrates of the Second Class to take cognizance of offences under Section 174 of the Indian Penal Code*) has practically been superseded by Act VIII of 1866 of the Governor General of India in Council (*An Act further to amend the Schedule annexed to the Code of Criminal Procedure*), inasmuch as the provisions of the said Act VIII of 1866 enable "any Magistrate" to take cognizance of offences under Section 174 (and certain other Sections) of the Indian Penal Code; and whereas it is necessary, in order to prevent any misapprehension as to the law in force in the Madras Presidency on the subject of offences under Section 174 of the Indian Penal Code, that the said Madras Act I of 1863 should be formally repealed; it is enacted as follows:—

1. Madras Act I of 1863 (*to enable Subordinate Magistrates of the Second Class to take cognizance of offences under Section 174 of the Indian Penal Code*) is hereby repealed.

Law repealed.

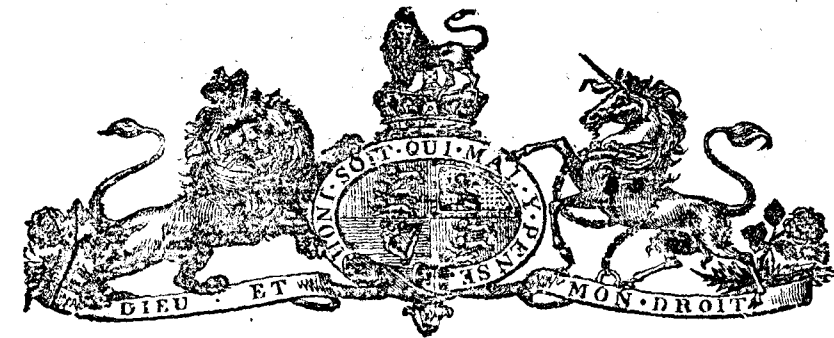
(By Order.)

P. O'SULLIVAN,

Ag. Assistant Secy. to Govt.,

Legislative Department.

[PRICE 6 PIES.]



ACTS OF THE GOVERNMENT OF MADRAS.

The following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General on the 27th June 1867, and is hereby promulgated for general information :—

THE MADRAS LAND REVENUE ACT AMENDMENT ACT.

ARRANGEMENT OF SECTIONS.

SECTIONS.

1. Definition of "Revenue."
2. Law repealed.
3. Land, the security for the revenue.
4. In default of payment, Collector to recover revenue by distress and sale of moveable property.
Collector empowered to sell lands, if arrears be not recoverable by distress.
5. Interest on arrears.
6. Seizure and sale of moveable property to be made according to following rules.
Collector to furnish person distraining with a demand in writing.
Defaulter to be served with a copy.
Writing to state that the distrained property will be sold.
Mode of service when defaulter is absent.
7. Consequence of defaulter neglecting to pay after notice, or absenting himself.
8. On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.
9. Distress to be proportionate to the arrear.
10. Time for distress.

11. What

SECTIONS.

11. What places Distraîner may force open.
12. Powers of Distraîner to force open doors in the presence of a Police Officer.
13. Mode of distraining within Zenanahs.
14. Demand to be served prior to attachment of land.
Mode of Service.
15. Consequence of defaulter neglecting to pay.
16. Mode of attachment.
17. Persons interested in the land may release it from attachment.
18. Rules to be observed in the sale of immoveable property.
Public auction.
Notification one month before sale.
Deposit and payment of balance.
Re-sale in default of payment.
Agents to name their principals.
19. Tender of arrears up to sun-set on day previous to sale.
20. Purchaser to be registered.
Effect of Certificate.
21. Proclamation of sale.
22. Delivery of possession.
23. Contracts with, and payments to defaulter, how far binding on the purchaser.
24. Sale to be free of all incumbrances.
Disposal of surplus.
25. Arrears of rent due to defaulter from his under-tenants on the day of sale, how to be recovered.
26. Sale of land.
27. Sale may be postponed on tender of security.
28. Process-servers to be paid batta.
29. Interest and charges recoverable as arrears.
30. Expense of countermanded sales to be sustained by the defaulter.
And recovered as an arrear.
31. Suits by persons aggrieved by proceedings under this Act.
Limitation of Suits.
32. Suits against Collector to survive against his successor.
Or to be originally maintainable against him.
No personal liability for acts of predecessor.
33. Act to be read as part of Act XII of 1851.

MADRAS

MADRAS

ACT No. VI OF 1867.

An Act to amend Act XII of 1851 (An Act for securing the Land Revenue of Madras).

WHEREAS in the Preamble to Act XII of 1851, it is declared to be expedient that the land revenue accruing due to the Government of India within the Town of Madras should be ascertained and collected in as summary a manner as in other parts of the Territories under the said Government, and it is enacted in Section 9 of the said Act that the claim of the Government for land revenue has priority over all claims upon the land; and whereas in other parts of the said Territories the land itself is the security for the revenue assessed thereon and is liable to be sold for the discharge of arrears, and there is no sufficient reason for exempting lands situated within the Town of Madras from the same liability; and whereas it is expedient to give additional powers to the Distraîner Officer appointed by the Collector of Madras under Section VII of the said Act; it is hereby enacted as follows:—

1. The word "revenue," as used in this Act, shall mean assessment, quit-rent, ground-rent, or other charge upon the land payable to the Government.

Law repealed.

2. Section 7 of Act XII of 1851 is hereby repealed.

Land, the security for the revenue.

3. The land and the buildings thereon shall be regarded as the security of the public revenue.

4. Whenever any owner, tenant, or occupier of land subject to the payment of revenue to the Government, or whenever any person holding such land, shall, upon the written demand of the Collector, or of any Officer duly empowered to act on the Collector's behalf, refuse or neglect to pay any sum with which the land is charged as revenue, the Collector shall proceed for the recovery of such revenue by distress and sale of the moveable property of the owner wherever found, or, in the case of the tenant or occupier or holder of the land, by distress and sale of any moveable property found upon such land. If, however, the Collector shall not be able to recover the arrears due by distress and sale of the moveable property as aforesaid, it shall be lawful for the Collector to cause the land and buildings thereon to be sold for the arrear which has accrued due thereon, in the manner hereinafter provided.

In default of payment, Collector to recover revenue by distress and sale of moveable property.

Collector empowered to sell lands, if arrears be not recoverable by distress.

5. Arrears

Interest on arrears.

5. Arrears of revenue accruing on land within the Town of Madras shall bear interest at the rate of six per cent. per annum.

Seizure and sale of moveable property to be made according to following rules.

6. In the seizure and sale of moveable property for arrears of revenue, the following rules shall be observed :—

1st.—The Collector shall employ a person, hereinafter called the Distraining Officer, to distrain the property, and shall furnish to such Officer a demand in writing, signed by the Collector, or by some Officer empowered by him in that behalf, specifying the amount of the arrear for which the distress shall be issued, and the date on which the arrear fell due.

2nd.—The Distraining Officer shall produce the writing as authority for making the distress, and on the day on which the property shall be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where the property may be lodged or kept.

3rd.—The writing shall further set forth that the distrained property will be brought to public sale within seven days, unless the amount of the arrear, with interest and all expenses of the distress, be previously discharged.

4th.—When a defaulter shall be absent, a copy of the writing, with the endorsement, shall forthwith be fixed or left at his usual place of residence.

7. When a defaulter, on receiving notice, shall neglect to pay the amount due, or when a defaulter shall have absconded or be otherwise not forthcoming, so that the notice cannot be served upon him, the distraining Officer shall transmit an inventory of the property distrained to the Collector.

8. If a defaulter whose property has been distrained, shall, before the day of sale, tender payment of the arrear demanded, together with interest and all expenses attending the distress, the Distraining Officer shall receive the amount of the arrear, interest, and expenses, and shall forthwith release the property.

9. The

9. The distress levied shall not be excessive, and the value of property distrained shall be, as nearly as possible, proportionate to the amount of the arrear.

Distress to be proportionate to the arrear.

Time for distress.

10. The distress shall be made after sun-rise and before sun-set, and not at any other time.

11. The Distraining Officer shall have power to force open any stable, cow-house, granary, store-house, out-house, or other building, as also to enter any dwelling-house, the outer door of which may be open, (excepting the apartments in such dwelling-house appropriated for the Zenanah or residence of women, which by the usage of the country, are considered private), and to break open the door of any room in such dwelling-house for the purpose of attaching property liable to attachment under this Act.

12. Where a Distraining Officer shall have reason to suppose that the property liable to attachment under this Act is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, such Officer shall represent the same to the Officer in charge of the nearest Police station within the limits of the Town of Madras; and on such representation, the Officer in charge of the said station shall send a Police Officer to the spot, in the presence of whom the Distraining Officer may force open the outer door of such dwelling-house.

13. The Distraining Officer may also, in the presence of the Police Officer, after due notice given for the removal of women within a Zenanah, and after furnishing means for their removal in a suitable manner, if they be women of rank, who, according to the custom of the country, cannot appear in public, enter the Zenanah apartments for the purpose of distraining the defaulter's property therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

14. Before the Collector, or other Officer empowered by the Collector in that behalf, proceeds to attach the land of a defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be seven days from the

date

date of service upon him. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized Agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached.

Mode of service.

15. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other Officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

Consequence of defaulter neglecting to pay.

16. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the Official Gazette of the Madras District.

Mode of attachment.

17. It shall be lawful for any person claiming an interest in land which has been, or is about to be attached, to obtain its release by paying the arrears, interest and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and, if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall, in the absence of any valid engagement to the contrary, only take priority over other charges according to the date at which the payment was made.

Persons interested in the land may release it from attachment.

Rules to be observed in the sale of immoveable property.

18. In the sale of immoveable property under this Act, the following rules shall be observed :—

First.—The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector or other Officer empowered by the Collector in that behalf.

Public auction.

Second.—Previous to the sale, the Collector, or other Officer empowered by the Collector in that behalf, shall issue a notice thereof in English and in Tamil or Hindustani, specifying the name of the defaulter; the position and extent of land and of the buildings thereon; the amount

of

of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current revenue year; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's Office in the nearest Police Station-house, and on some conspicuous part of the land.

Third.—A sum of money equal to fifteen per cent. of the price of the land shall be deposited by the purchaser in the hands of the Collector or other Officer empowered by the Collector in that behalf at the time of the purchase; and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Deposit and payment of balance.

Fourth.—If the purchaser refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be re-sold at the expense and hazard of such purchaser; and the amount of all loss or expense which may attend such refusal or omission, shall be recoverable from such purchaser in the same manner as arrears of public revenue. If the lands, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Re-sale in default of payment.

Fifth.—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as Agents, and in the latter case to deposit a written authority signed by their principal. If such requisition be not complied with, their bids may be rejected.

Agents to name their principals.

19. It shall be competent to the defaulter, or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching the property, or in taking the steps necessary for sale, and thereupon the sale shall be stayed: provided always, that such tender must be made before sun-set on the day previous to that appointed for the sale; and all sums so paid by any tenant, or *bona fide* mortgagee, or other incumbrancer, may be recovered in the manner provided in Section 17.

Tender of arrears up to sun-set on day previous to sale.

20. Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase in all Courts and tribunals where it may be material to establish the same; and no proof of the Collector's seal or signature

Purchaser to be registered. Effect of certificate.

signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

21. When lands may be purchased at public sale, the Collector, or other Officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated, in the Collector's Cutcherry, and in the Official Gazette of the Madras District, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

22. If, notwithstanding such publication, any lawful purchaser of land be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by Section 20, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

23. All contracts entered into by the defaulter with his tenants, and all payments to him by them, shall be binding upon the purchaser as they would have been binding upon the defaulter.

24. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, except such as were *bona fide* created before the coming into operation of this Act; and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale, and other costs due in respect of such arrears, it shall be paid over to the defaulter, unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

25. Arrears of rent which on the day of sale may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

26. It shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrears of revenue; provided

vided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears, with interest, and expenses of attachment and sale.

27. When a defaulter tenders security, it shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such Officer may sell the property and proceed against the defaulter, or against his security, or both.

28. Persons employed in serving notices or in other process under this Act, shall be entitled to batta at such rates as may from time to time be fixed by the Board of Revenue with the sanction of Government, and published in the Official Gazette of the Madras District.

29. The batta mentioned in the foregoing Section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

30. If property having been attached or distrained be ordered to be put up for sale, and the sale be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

31. Nothing contained in this Act, shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress, provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

32. No suit brought against the Collector by any person deeming himself aggrieved by any thing done or purporting to be done under this Act, shall abate by reason of the departure of the Collector from the District; but the suit shall be continued against the

successor

Or to be originally maintainable against him.

No personal liability for acts of predecessor.

successor of the Collector in all respects as though it had been instituted against himself. A suit may be brought against the Collector in his official capacity on account of any thing done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding Section: provided that the Collector shall not be personally liable for any official act of his predecessor.

Act to be read as part of Act XII of 1851.

33. This Act shall be read with and taken as part of Act XII of 1851.

(By order.)

P. O'SULLIVAN,
Actg. Asst. Secretary to Government,
Legislative Department.

vided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears, with interest, and expenses of attachment and sale.

27. When a defaulter tenders security, it shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such Officer may sell the property and proceed against the defaulter, or against his security, or both.

28. Persons employed in serving notices or in other process under this Act, shall be entitled to batta at such rates as may from time to time be fixed by the Board of Revenue with the sanction of Government, and published in the Official Gazette of the Madras District.

29. The batta mentioned in the foregoing Section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

30. If property having been attached or distrained be ordered to be put up for sale, and the sale be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

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32. No suit brought against the Collector by any person deeming himself aggrieved by any thing done or purporting to be done under this Act, shall abate by reason of the departure of the Collector from the District; but the suit shall be continued against the

successor

Or to be originally maintainable against him.

No personal liability for acts of predecessor.

successor of the Collector in all respects as though it had been instituted against himself. A suit may be brought against the Collector in his official capacity on account of any thing done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding Section: provided that the Collector shall not be personally liable for any official act of his predecessor.

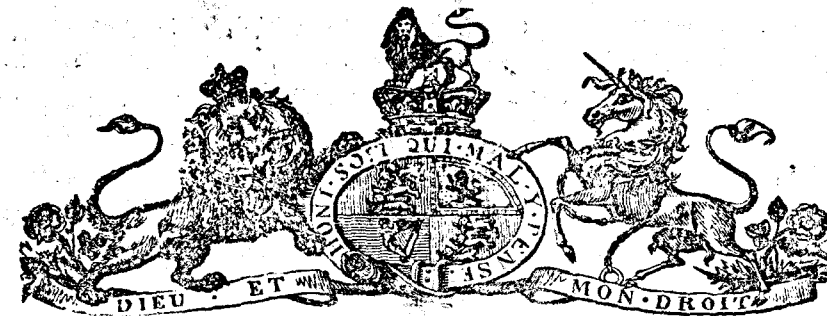
Act to be read as part of Act XII of 1851.

33. This Act shall be read with and taken as part of Act XII of 1851.

(By order.)

P. O'SULLIVAN,

Actg. Asst. Secretary to Government,
Legislative Department.



ACTS OF THE GOVERNMENT OF MADRAS.

The following Act of the Governor of Fort Saint George in Council, received the assent of His Excellency the Viceroy and Governor General on the 19th June 1868, and is hereby promulgated for general information:—

MADRAS

ACT No. II of 1868.

An Act to enable landholders in certain localities to levy tolls upon roads and bridges constructed by them at their own expense, and also on roads and bridges constructed at the expense of the State, the repair and maintenance of which may be undertaken by such landholders.

WHEREAS it is expedient to enable landholders in Wynaad and other similar localities to levy tolls on roads and bridges constructed and maintained by them at their own expense, either wholly or in part, and also upon roads and bridges constructed at the expense of the Government, which may be transferred to such landholders for maintenance and repair; It is hereby enacted as follows:—

1. In this Act the word "landholder" shall signify the actual owner or occupier of land, or the resident agent or manager of such owner or occupier.

2. This Act shall not be capable of operation in any District of the Madras Presidency until it has been extended thereto by an order of the Governor of Fort Saint George in Council.

3. The

3. The Governor of Fort Saint George in Council may grant permission to any landholder or number of landholders in any District or part of any District to which this Act shall have been extended, to levy tolls for such period and at such rates as may from time to time be sanctioned by the said Governor of Fort Saint George in Council, on all carriages, carts, and other vehicles, and on palanquins, tonjons, doolies and munchiels, and on all horses and other animals, passing along any road or bridge which such landholder or landholders may have constructed, or may propose to construct at his, or their joint, expense, either wholly or in part, or which, if it have been constructed at the expense of the Government, the said landholder or landholders may have undertaken to keep in repair. Provided that the places at which such tolls are to be levied shall have been previously approved by the said Governor of Fort Saint George in Council before any toll bars shall be put up, or the payment of tolls enforced on such roads or bridges. Provided also, that animals drawing any vehicles for which a toll may be demanded are not to be also charged with toll.

Permission to landholders to levy tolls on roads or bridges constructed by them or on Government roads or bridges maintained and repaired by them.

Proviso.

4. Every application for permission to levy tolls under this Act shall be made through the Collector of the District, whose duty it shall be to report to the Government his opinion as to the advisability of granting or refusing such application.

Application for permission to levy tolls to be made through Collector.

5. Any landholder or number of landholders to whom permission to levy tolls has been given, as aforesaid, shall be deemed to be a body corporate, with perpetual succession, until the permission to levy tolls is discontinued. Provided that whenever a landholder shall cease to be the owner or manager of the Estate in respect of which such permission may have been given, such landholder shall cease to be a member of the corporation, and his rights and responsibilities under this Act shall pass to the person or persons who shall succeed him as owner or manager of such Estate. Provided also, that if such landholder shall cease to be the owner or manager of any part of such Estate, his rights and responsibilities, as aforesaid, shall pass to the person or persons who shall succeed him as owner or manager of any part of such Estate.

For the purposes of this Act, landholders to be deemed to be a body corporate.

6. Whenever any land is required for the construction or extension of roads or bridges upon which the permission to levy tolls has been granted, the landholders to whom such permission has been given may apply to the Collector of the District, stating the situation and quantity of land so required, the mode in which it is used, and the names of its owners and occupiers. The Collector shall forward

Steps to be taken for acquiring land required for the construction of roads or bridges.

the

the application to the Government, and shall at the same time report upon the propriety of granting the application. It shall thereupon be lawful for the Government to declare that such land is required to be taken by Government at the public expense for a public purpose, and such a declaration shall have the same effect as if it had been made under Act VI of 1857, Section 2.

7. The Collector shall, when directed by the Government, proceed to take order for the acquisition of the land in the manner provided by Act VI of 1857. But he shall not take possession of such land until the entire compensation payable in respect thereof, and all costs which he shall have incurred in acquiring the land, shall have been paid to him by the landholders who have applied for the land.

Collector to take order for acquiring land but not to take possession thereof until compensation and costs are paid by landholders.

8. When the amount of compensation and costs remains unpaid after a reasonable time from the date at which it was determined, the Collector shall, by notice to the landholders, fix a day on or before which payment must be made. If the amount remains unpaid after the expiration of such period, the Collector shall notify the same in the District Gazette, and thereupon all proceedings taken for the acquisition of the land shall become null and void; and no claim shall be maintainable against the Government in respect of the declaration that the land was required for public purposes, or in respect of any other proceedings taken in pursuance of that declaration.

Failure of payment of compensation and costs to render null and void all proceedings taken for the acquisition of the land.

9. So soon as payment shall have been made by the landholders as aforesaid, the Collector shall place them in possession of the land, and shall execute an assignment of the same to them for and on behalf of the road corporation, and thereupon the land shall vest in such corporation, for the purposes of the road or bridge.

Landholders when to be placed in possession of land.

10. Whenever the permission provided for in Section 3 shall have been given to any landholder or landholders, notice of the same shall be given in the *Fort Saint George Gazette* and in the *Gazette* of the District in which the road or bridge is situated. Such notice shall specify the name or names of the landholder or landholders to whom the permission has been given, the name or names of the Estate or Estates of such landholder or landholders, the rates of toll which may be levied, the name of the road or bridge, the names of the places at which the levy of tolls has been sanctioned, and the name of the person appointed by the said landholders to superintend the collection of the toll, who shall be designated Superintendent of Tolls on the road or bridge specified in the Notification. The person so appointed shall be liable to be removed

Notification of grant of permission to levy tolls, with other particulars, to be published in Fort Saint George and District Gazettes.

Appointment and removal of Superintendent of tolls.

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moved by a majority of the landholders to whom the permission to levy tolls on the road or bridge in question may have been given ; and it shall be open to the said landholders to appoint another person in his place as Superintendent of Tolls, intimating such appointment to the Collector of the District.

Appointment of persons to collect the tolls.

11. It shall be competent to such landholders to place the collection of the tolls under the management of such persons as they may deem proper.

12. The Superintendent of Tolls may, at his discretion, compound for any period not exceeding one year, with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of toll which may have been sanctioned under Section 10 of this Act.

Superintendent may compound for tolls.

13. In case of non-payment of any such toll on demand, the persons appointed to collect the same may seize any of the carriages or animals on which it is chargeable, of sufficient value to defray the toll; and, if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the Superintendent of Tolls, who may sell the property seized for discharge of the toll and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said Superintendent of Tolls, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any close holiday, he will sell the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said Superintendent of Tolls shall forthwith release the property seized.

Procedure in case of non-payment of toll.

14. No tolls shall be paid for the passage of Troops and Military Stores and Equipages on their march, or of Military or Police Officers on duty, or of any person or property in their custody; but no other exemption from payment of the tolls levied under this Act shall be allowed.

Exemption from payment of tolls in favor of troops, Military Stores and Military or Police Officers on duty.

15. All Police Officers shall be bound to assist the Toll Collectors, when required, in the execution of this Act, and, for that purpose, shall have the same power which they have in the exercise of their common Police duties.

Police to assist Toll Collectors in execution of this Act.

16. Every

16. Every person, other than persons appointed to collect the tolls under this Act, who shall levy or demand any toll, and also every person who shall unlawfully or extortionately demand or take any other or higher toll than the lawful toll, or, under color of this Act, seize or sell any property knowing such seizure or sale to be unlawful, or in any manner extort money or any valuable thing from any person under color of this Act, shall be deemed to have committed the offence of cheating, or extortion, as the case may be, and shall be liable to such punishment as is prescribed for those offences, respectively, by the Indian Penal Code.

II legal collection of tolls.

17. A table of the tolls authorized to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station legibly written or printed in English words and figures, and also in those of the Vernacular language of the District, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll.

Table of tolls and penalties to be put up near toll-gate.

18. It shall be lawful for the Governor of Fort Saint George in Council at any time to withdraw any permission to levy tolls which may have been given under the provisions of Section 3 of this Act, and also at any time to assume the management of any roads or bridges constructed at the expense of the Government, which may have been transferred to any landholder for maintenance and repair.

Withdrawal, by Government, of permission to levy tolls.

19. 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 Governor of Fort Saint George in Council shall from time to time direct.

Mode of recovering fines.

(By order.)

P. O'SULLIVAN,
Acting Assistant Secretary to Government,
Legislative Department.

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A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1869.

MADRAS:

PRINTED BY H. MORGAN, AT THE GOVERNMENT PRESS, FORT SAINT GEORGE.

1870.

TITLES
OF
ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL
IN THE YEAR 1869.

Act No.	I.	An Act to define the rights of Taluqdárs and others in certain estates in Oudh, and to regulate the succession thereto.
—	II.	for the appointment of Justices of the Peace.
—	III.	for the maintenance of the Rural Police in the North-Western Provinces.
—	IV.	to amend the law relating to Divorce and Matrimonial Causes in India.
—	V.	to consolidate and amend the Articles of War for the government of Her Majesty's Native Indian Forces.
—	VI.	to amend the law relating to the Emigration of Native Labourers.
—	VII.	to give validity to certain Rules relating to Forests in British Burmah.
—	VIII.	further to amend the Code of Criminal Procedure.
—	IX.	for imposing duties on Income and Profits arising from Offices, Property, Professions and Trades.
—	X.	to abolish the Police Superannuation Funds.
—	XI.	to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidencies of Fort St. George and Bombay.
—	XII.	to amend the law relating to Customs Duties.
—	XIII.	further to amend the Procedure of the High Court of Judicature for the North-Western Provinces.
—	XIV.	to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.
—	XV.	to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.
—	XVI.	to exclude the ordinary Civil Courts from the cognizance of suits relating to land in the Bhutan Dvârs, and for other purposes.
—	XVII.	to shorten the time for landing cargo.
—	XVIII.	for imposing Stamp Duties on certain instruments.
—	XIX.	to facilitate administration to the estates of deceased British subjects in the Hyderabad Assigned Districts.
—	XX.	to provide for the good order and discipline of Volunteer Corps, and to invest them with certain powers.

Act No. XXI. An Act to provide against European Vagrancy.

- XXII. to remove the Gáro Hills from the jurisdiction of the tribunals established under the General Regulations and Acts, and for other purposes.
- XXIII. to enhance the duties leviable under the Indian Income Tax Act.
- XXIV. to enhance the price of salt in the Presidency of Fort St. George and the duty on salt in the Presidency of Bombay.
- XXV. to provide rules for the manufacture, storing and sale of alimentary salt in the North-Western Provinces, the Punjáb, Oudh and the Central Provinces.
- XXVI. to correct a clerical error in Act No. VIII. of 1863.

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IN THE YEAR 1869.

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A COLLECTION

26 OF
THE ACTS

PASSED BY THE

GOVERNOR-GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1870.

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TITLES

OF

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL IN THE YEAR 1870.

- I. An Act to provide Rules relating to Quarantine.
- II. to provide for the appointment of additional Subordinate Judges and Munsifs in the Presidency of Fort William.
- III. to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.
- IV. for investing the Assistant Commissioner in charge of the Kullu Sub-division of the Kangra District with certain appellate powers.
- V. to enable the High Courts at the Presidency Towns to deal with costs of petitions for certain moneys transferred to Government.
- VI. to enable the Governor-General in Council to increase the fee payable under section thirty-one of the Emigration Act.
- VII. The Court Fees' Act, 1870.
- VIII. An Act for the prevention of the murder of Female Infants.
- IX. 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.
- X. for the acquisition of land for public purposes and for Companies.
- XI. to regulate the Weights and Measures of British India.
- XII. for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.
- XIII. to apply the provisions of Act No. XVIII. of 1854 to Railways belonging to, or worked by, Government.
- XIV. for repealing certain enactments which have ceased to be in force, or have become unnecessary.
- XV. for the further amendment of Act No. XIX. of 1861.
- XVI. for imposing duties on Income and Profits.
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- XVIII. to enable the Government of India to exempt goods from Customs duties.
- XIX. to enable the Directors of the Bank of Bengal to act by a quorum.
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- XXI. to regulate the Wills of Hindús, Jainas, Sikhs, and Buddhists in the Lower Provinces of Bengal, and in the towns of Madras and Bombay.

- XXII. An Act to confirm certain Laws affecting European British subjects.
 XXIII. to consolidate and amend the Law relating to Coinage and the Mint.
 XXIV. to relieve from incumbrances the estates of Taluqdárs in Oudh.
 XXV. to legalize the levy of certain duties on timber imported into Maulmain.
 XXVI. to amend the law relating to Prisons.
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 XXVIII. to authorize the committal of European British subjects by Courts in the Andamans to the High Court at Fort William.

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ACT NO. XI. OF 1870.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st April 1870.)

THE INDIAN WEIGHTS AND MEASURES ACT, 1870.

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IV.—Wardens.

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An Act to regulate the Weights and Measures of British India.

WHEREAS it is expedient to provide for the ultimate adoption of an uniform system of Weights and Measures throughout British India;
It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

Short title.
Local extent.

1. This Act may be called "The Indian Weights and Measures Act, 1870," and extends to the whole of British India.

II.—Standards.

2. The primary standard of Weight shall be called a Ser, and shall be a Weight of metal in the possession of the Government of India, which weight, when weighed in a vacuum, is equal to the Weight known in France as the Kilogramme des Archives.

Standard of Weight.

3. The

3. The primary standard of Length shall be called a Metre, and shall be the distance between the marks at the ends of a rod of metal in the possession of the Government of India, which distance, when measured at the temperature of melting ice, is equal to the Measure of Length known in France as the Metre des Archives.

Standard of Length.

Units of Weight and
Measurement.

4. The Units of Weight and Measurement shall be—
for Weights, the said Ser;

for Measures of Capacity, a measure containing one such Ser of water at its maximum density, weighed in a vacuum;

for Measures of Length, the said Metre;

for Measures of Area, the square Metre;

for Measures of Solidity, the cubic Metre.

5. The Governor-General in Council may, from time, by notification in the *Gazette of India*, declare the magnitude and denominations of the Weights and Measures, other than the said units, to be authorized under this Act:

Provided that every such Weight or Measure shall be an integral multiple or integral sub-multiple of one of the units aforesaid.

The Governor-General in Council may, in like manner, revoke such notification.

Unless it be otherwise ordered in any such notification, the sub-divisions of all such Weights and Measures shall be expressed in decimal parts.

6. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, define the limits of districts for the purposes of this Act.

Districts how defined.

The Local Government may, from time to time, by notification in the official Gazette, define the limits of sub-districts for the purposes of this Act.

Sub-districts how defined.

7. The Governor-General in Council shall provide, in such manner and for such districts as the said Governor-General in Council shall direct, proper primary standards and sets of the said authorized Weights and Measures.

Primary standards to be provided.

Such standards shall, for the purposes of this Act, be deemed the standards for such districts.

8. The

8. The Local Government shall provide, in such manner and for such sub-districts as the Local Government shall direct, copies of such of the said authorized Weights and Measures as shall be necessary to serve as local standards in such sub-districts.

Such local standards shall be deemed correct, until they are proved to be otherwise.

III.—Use of new Weights and Measures.

9. Whenever the Governor-General in Council considers that proper standard Weights and Measures have been made available for the verification of the Weights and Measures to be used by any Government Office or Municipal Body or Railway Company, the Governor-General in Council may, by notification in the *Gazette of India*, direct that, after a date to be fixed therein, all or any of the Weights and Measures authorized as aforesaid shall be used in the dealings and contracts by such Office, Body, or Company.

10. The Governor-General in Council, or the Local Government with the previous assent of the Governor-General in Council, may, by notification in the official Gazette, direct that, after a date to be fixed therein, all or any of the Weights and Measures of Capacity authorized as aforesaid shall, in every district or sub-district therein mentioned, be used in the dealings and contracts of all persons engaged in business or trade, or of the persons engaged in any specified business or trade; and may in like manner, from time to time, alter or revoke such direction; Provided that no such notification shall issue, until proper standard Weights and Measures have been provided for such district or sub-district.

11. After the date fixed in any Notification under section nine or section ten, all dealings and contracts had and made by the Officers, Bodies, Companies, or persons mentioned or referred to in such Notification, for any work to be done or goods to be sold or delivered by Weight or Measure of capacity, length, area or solidity shall, in the absence of a special agreement to the contrary, be deemed to be had and made according to the Weights and the Measures of capacity, length, area or solidity, as the case may be, directed in such Notification to be used by such Officers, Bodies, Companies or persons.

IV.—Wardens.

12. The Governor-General in Council (as regards the said primary standards and sets of authorized Weights and Measures) and the Local Government (as regards the said local standards) shall appoint

appoint Wardens for the custody of the said standards and sets of authorized Weights and Measures.

The Governor-General in Council, or the Local Government, as the case may be, may at any time, suspend or remove any such Warden, and appoint another person in his stead.

13. All officers of Government, Municipal officers, officers and servants of Railway Companies and persons engaged in businesses or trades, shall, so far as they are required by the rules made under section twenty-seven, submit to a Warden for verification the Weights, Weighing Machines, and Measures used by them under the provisions of section nine or section ten, and the Balances used by them in their dealings, at such times not oftener than once in two years, and pay for such verification such fee as the said rules shall prescribe.

14. Every such Warden (so far as he is required by the rules made under section twenty-seven) shall verify, and shall, if requested so to do, correct, all Weights, Weighing Machines, and Measures purporting to indicate Weights or Measures authorized under this Act, and all Balances, which are brought to him to be verified or corrected, and which appear to him fit for verification or correction.

When such Weights, Machines, Measures, or Balances are found or made correct and in conformity with the requirements of this Act, he shall certify such correctness and conformity by stamping, engraving or branding them with the proper mark.

15. The Warden may deface, or render incapable of use, or refuse to verify, correct, or mark, anything so brought, which appears to him unfit for verification or correction.

16. All prosecutions under this Act shall be instituted and conducted by a Warden, or by such person as in each case the Warden may appoint in this behalf.

17. On the application of a Warden, any officer in charge of a police station and, in a Presidency town, any inspector or superior officer of Police, may enter any premises or shop within the limits of such station or town for the purpose of inspecting or searching for Weights, Weighing Machines, and Measures kept for use under the provisions of section nine or ten, and for the purpose of inspecting or searching for the Balances kept for use in the dealings of the person occupying such premises or shop.

If such

If such officer find in such premises or shop any such Weight, Machine, Measure or Balance, which shall not be verified under the provisions herein contained, or in conformity with the requirements of this Act, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

18. Any of the powers and duties conferred and imposed by this Act on a Warden may be exercised and performed by any other officer whom the Local Government may, from time to time, appoint.

Exercise of any of Warden's powers.

V.—Penalties.

19. The Governor-General in Council, or the Local Government with the previous assent of the Governor-General in Council, may, by notification in the official Gazette, fix the date from which all or any of the provisions of sections twenty, twenty-one, twenty-two, and twenty-four shall come into force in respect to any district or sub-district; and the said sections shall be of no effect in such district or sub-district except in so far as they shall have so come into force.

20. Whoever sells any Weight, Weighing Machine, or Measure, purporting to indicate any Weight or Measure authorized under this Act and directed to be used under section nine or ten, or any Balance, which Weight, Machine, Measure, or Balance shall not have been verified under the provisions herein contained, shall, for every such sale, be liable to a fine not exceeding five rupees,

and in default of payment thereof, to imprisonment for a term not exceeding a week.

21. Whoever uses or has in his possession for purposes of business or trade any weight, Weighing Machine or Measure purporting to indicate any Weight or Measure authorized under this Act, and directed to be used by him under section nine or ten, or any Balance, which Weight, Machine, Measure or Balance being correct and in conformity with the requirements of this Act, shall not have been verified under the provisions herein contained, shall, for every such thing so used or had in possession, be liable to a fine not exceeding five rupees,

and in default of payment thereof to imprisonment for a term not exceeding a week.

Use of Weights, Measures, and Balances not verified and not correct.

22. Whoever uses or has in his possession, for purposes of business or trade,

any

any Weight or Measure other than a Weight or Measure directed to be used by him under section nine or ten, or any Machine for the purpose of indicating any Weight other than a Weight so directed to be used,

or any Weight, Weighing Machine, or Measure, purporting to indicate any Weight or Measure authorized under this Act, and directed to be used by him under section nine or ten, or any Balance, which Weight, Measure, Machine, or Balance has not been verified under this Act and is not correct, or is not in conformity with the requirements of this Act,

shall, for every such offence, be liable to a fine not exceeding ten rupees,

and in default of payment thereof to imprisonment for a term not exceeding a fortnight:

Provided that nothing herein contained shall render it penal to use or to have in possession for purposes of business or trade any Weight or Measure in accordance with the standards of Weights and Measures established throughout the United Kingdom of Great Britain and Ireland.

Proviso as to Weights and Measures of the United Kingdom.

23. No person shall be convicted under section twenty-one or section twenty-two unless the Warden shall have proved that Weights or Measures verified under this Act, and suitable for the purposes of the business or trade of such person, were publicly offered for sale and procurable at a reasonable price in the district or sub-district in which the offence was committed, and at or immediately before the time when the offence was committed.

Convictions under sections 21 and 22 how limited.

24. Whoever fails to submit for verification under section thirteen any Weight, Weighing Machine, or Measure used by him under the provisions of section nine or section ten, or any Balance used by him in his dealings, shall be liable to a fine not exceeding fifty rupees,

Failure to submit for verification.

and in default of payment thereof to imprisonment for a term not exceeding one month,

25. A Magistrate convicting any person under section twenty, twenty-one, twenty-two, or twenty-four of this Act, or under chapter XIII. of the Indian Penal Code (*Of offences relating to weighing and measuring*), may order the thing in respect to which the conviction took place to be brought before a Warden, to be dealt with under the provisions of sections fourteen and fifteen:

Disposal of things in respect to which convictions take place.

Provided

Provided that, if the Magistrate consider such thing unfit for verification or correction, he may, instead of ordering it to be brought before a Warden, cause it to be defaced or rendered incapable of use.

26. Whoever knowingly counterfeits any mark used by a Warden under section fourteen, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Counterfeiting Warden's marks.

V.—Miscellaneous.

27. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the following matters:—

Power to make rules.

- (a.)—The appointment of Wardens;
- (b.) The guidance of Wardens in all matters connected with the performance of their duties;
- (c.) The provision, replacement, custody, and use of the standards;
- (d.) The method of verifying local standards, and Weights, Weighing Machines, and Measures authorized under this Act, and Balances, and of certifying such verification;
- (e.) The errors which may be tolerated in Weights, Weighing Machines, and Measures authorized under this Act, and in Balances;
- (f.) The shapes, proportions, and dimensions to be given to Weights, Weighing Machines, and Measures authorized under this Act, and to Balances, and the materials of which they may be made;
- (g.) The marking on Weights and Measures authorized under this Act of their several denominations;
- (h.) The conditions under which Government Offices, Municipal Bodies, Railway Companies, and persons engaged in businesses or trades, shall be subject to inspection and verification of the Weights, Weighing Machines, and Measures authorized under this Act, and of the Balances used or sold by them;
- (i.) The fees to be paid for verifying, correcting, and certifying the verification of Weights, Weighing Machines and Measures, authorized under this Act, and of Balances.

Publication of rules.

28. Such rules shall be published in the *Gazette of India*.

And

And the Governor-General in Council, or the Local Government with the previous assent of the Governor-General in Council, may, by notification in the official Gazette, declare that, from and after a day to be named therein, all or any of the said rules shall come into force in respect of any Government Office, Municipal Body, or Railway Company, or of the persons engaged in any specified business or trade in any district or sub-district, and, thereupon, to the extent specified in such notification, such rules or rule shall have the force of law.

29. 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.

All fees payable under this Act shall be recoverable as though they were fines.

30. The Local Government may, from time to time, prepare tables of the equivalents of Weights and Measures, other than those authorized under this Act, in terms of the Weights and Measures so authorized, and the equivalents so stated, after notification in the local official Gazette, shall be deemed the true equivalents.

Recovery of fines and fees.

Tables of equivalents.

SECTIONS.

CHAPTER VII.—*Suits for Compensation.*

29. Saving of right to sue for compensation.

30. Set-off.

Schedule of repealed Acts.

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.'

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.*

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.

Establishment of pounds.

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 feeding
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.

Suspension or removal of pound-keepers.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Pound-keepers may hold other offices.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers to be 'public servants.'

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.*

Cattle damaging land.

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,

or

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,

and shall take them without unnecessary delay to the nearest pound.

Fines for cattle impounded.

12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

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 the cattle be not claimed within seven days from the date of their being impounded, the pound-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.

Receipt.

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.

Disposal of fines, expenses and surplus 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.

Application of fines and unclaimed proceeds of sale.

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.

Officers and pound-keepers not to purchase cattle at sales under Act.

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.

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).

ACT N^o. II. of 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor-General on the 13th January 1871.)

An Act to extend the Prisons' Act, 1870, to Coorg.

For the purpose of extending the Prisons' Act, 1870, to Coorg: It is hereby
Preamble. enacted as follows:—

1. The said Act shall extend to the territories under the administration of
the Chief Commissioner of Coorg, but subject to the follow-
ing modifications (that is to say):—

(a.) The preamble and sections one and six shall be construed as if, after the
words 'Central Provinces,' the word 'Coorg' were inserted.

(b.) Section one shall be construed as if, for the words and figures 'Decem-
ber, 1870,' the words and figures 'February, 1871' were substituted.

[PRICE 6 PIES.]

ACT N^o. III. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 20th January 1871.)

THE INDIAN PAPER CURRENCY ACT, 1871.

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AN

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE GOVERNMENT PAPER CURRENCY.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Government Paper Currency; It is hereby enacted as follows:—

I.—Preliminary.

- | | |
|----------------|--|
| Short title. | 1. This Act may be called “The Indian Paper Currency Act, 1871”: |
| Local extent. | It extends to the whole of British India; |
| Commencement. | And it shall come into force on the passing thereof. |
| Acts repealed. | 2. The Acts mentioned in the schedule hereto annexed are repealed. |

All appointments made, rules prescribed, circles of issue established, notifications published, and notes issued under any such Act shall be deemed to be respectively made, prescribed, established, published and issued under this Act.

II.—The Department of Issue.

- | | |
|-----------------------------------|---|
| Functions of Department of Issue. | 3. There shall continue to be a Department of the public service, to be called the Department of Issue, whose function shall be the issue of promissory notes of the Government of India payable to bearer on demand, for such sums, not being less than five rupees, as the Governor-General in Council from time to time directs. |
|-----------------------------------|---|

- | | |
|-------------------------------------|---|
| Head Commissioner. | 4. At the head of such Department shall be an officer called the Head Commissioner of the Department of Issue, and two other officers, called, respectively, the Commissioner of the Department of Issue at Madras and the Commissioner of the Department of Issue at Bombay. |
| Commissioners at Madras and Bombay. | |

- | | |
|--------------------------------------|---|
| Power to establish Circles of Issue. | 5. The Governor-General in Council may from time to time, by order published in the <i>Gazette of India</i> , establish Districts, to be called Circles of Issue, three of which circles shall include the Towns of Calcutta, Madras and Bombay, respectively, appoint in each circle some one town to be the place of issue of notes, as hereinafter provided, established in such town an Office or Offices of Issue, and |
|--------------------------------------|---|

declare

declare that, for the purposes of this Act, any such town (other than Calcutta, Madras or Bombay) shall be deemed to be situate within such Presidency as is specified in the order.

Deputy Commissioners. 6. For each Circle of Issue other than those which include the Towns of Calcutta, Madras and Bombay, there shall be an officer called the Deputy Commissioner of Issue.

Subordination of Commissioners and Deputy Commissioners. 7. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner:

the Deputy Commissioners in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner; and

the Deputy Commissioners in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay, respectively.

Appointment, suspension, and removal of officers. 8. All officers under this Act shall be appointed, and may be suspended or removed, by the Governor-General in Council.

III.—Supply and Issue of Currency Notes.

Head Commissioner to provide and distribute Currency notes. 9. The Head Commissioner of Issue shall provide promissory notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, and shall supply the Commissioners at Madras and Bombay, and the several Deputy Commissioners with such notes as they require for the purposes of this Act.

Notes where payable. All such notes shall bear upon them the name of the town from which they are severally issued, and shall be payable only—

at the Office or Offices of Issue of such town and

at the Presidency town of the Presidency within which such town is situate.

Signatures to notes. 10. The name of the Head Commissioner, or either of the Commissioners, of a Deputy Commissioner, or of some other person authorized by the said Head Commissioner, or by either of the said Commissioners, to sign notes issued under this Act, shall be subscribed to every such note, and may be impressed thereon by machinery.

Names so impressed shall be taken to be valid signatures.

11. The

Issue of notes for silver. 11. The Head Commissioner, the Commissioners, and the Deputy Commissioners shall, in their respective Circles of Issue, on the demand of any person, issue from the Office or Offices of Issue established in their respective Circles, promissory notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, on the terms following:—

(a) in exchange for the amount thereof in current silver coin of the Government of India; or,

(b) in exchange for the amount thereof in silver bullion or foreign silver coin at the rate of nine hundred and seventy-nine rupees per one hundred and eighty thousand grains of silver fit for coinage and of the standard fineness prescribed by the Indian Coinage Act, 1870:

Provido. Provided that in all places where there is no Mint of the Government of India, any such Head Commissioner, Commissioner, or Deputy Commissioner may refuse to issue notes in exchange for silver bullion or foreign coin under this section.

Issue of notes for gold. 12. The Governor-General in Council may from time to time, by order published in the *Gazette of India*, direct that notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices of Issue as are named in the order, in exchange for gold coin of full weight of the Government of India or for foreign gold coin or gold bullion, at the rates and according to the rules and conditions fixed by such order.

Expense of melting and assaying bullion received for notes. 13. The Head Commissioner, Commissioners, and Deputy Commissioners may require any bullion or foreign coin received under section eleven or section twelve to be melted and assayed.

Loss of weight. Any loss of weight caused by such melting or assay shall be borne by the person tendering the bullion or coin.

Certificates for bullion. 14. Every person so tendering bullion or foreign coin and depositing it in any Office of Issue shall, after the expiration of the time necessary for melting and assaying the same, be entitled to receive therefor a certificate signed by the person authorized to issue the notes aforesaid.

Contents of certificate. Such certificate shall—

(a) acknowledge the receipt of such bullion or foreign coin.

(b) state

(b) state the amount of notes issued under this Act, or of such notes and cash, to which the holder is entitled in exchange for such bullion or coin,

(c) state the interval on the expiration of which, if the certificate be presented to such office, the holder shall be entitled to receive such amount.

15. Within any of the said Circles of Issue a note issued under this Act from any Office of Issue in such Circle, shall be a legal tender to the amount expressed in such note, in payment or on account of—

any revenue or other claim to the amount of five rupees and upwards due to the Government of India,

any sum of five rupees and upwards due by the Government of India, or by any body corporate or person in British India :

Provided that no such note shall be deemed to be a legal tender by the Government of India at any Office of Issue.

IV.—Reserve.

16. The whole amount of the coin and bullion received under this Act for notes shall be retained and secured as a reserve to pay such notes, with the exception of such an amount, not exceeding sixty millions of rupees, as the Governor-General in Council, with the consent of the Secretary of State for India, from time to time fixes.

17. The amount so fixed shall be published in the *Gazette of India*, and the whole or such part thereof as the Governor-General in Council from time to time fixes shall be invested in securities of the Government of India : the said coin, bullion and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said notes ; and the said note shall be deemed to have been issued on the security of such coin, bullion and securities, as well as on the general credit of the Government :

Provided that any silver bullion or foreign coin received under this Act may be sold or exchanged for silver coin of the Government of India, and that any gold coin or bullion received under this Act may be sold or exchanged for silver coin or bullion to be so appropriated and set apart instead of the gold coin or bullion.

For the purposes of this section, silver bullion and coin shall be rated at ninety-eight rupees per eighteen thousand grains of standard fineness, and gold bullion

bullion and coin at the rates fixed by the Governor-General in Council under section twelve.

18. The Government securities so purchased shall be held by the Head Commissioner and the Master of the Mint at Calcutta in trust for the Secretary of State for India in Council.

19. The Head Commissioner may, at any time when ordered so to do by the Governor-General in Council, sell and dispose of any portion of the above-mentioned limited amount of Government securities.

For the purpose of effecting such sales, the Master of the Mint at Calcutta shall, on a request in writing from the Head Commissioner, at all times sign and endorse such Government Securities, and the said Head Commissioner, if so directed by the Governor-General of India in Council, may purchase Government Securities to replace such sales.

20. The interest accruing due on the securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor-General in Council.

The amount of such interest shall from time to time, as it becomes due, be paid to the credit of the Government of India, under the head of "Profits of Notes Circulation."

and an account showing the amount of such profits and of the charges and expenses incidental thereto, shall be made up and published annually in the *Gazette of India*.

V.—Private Bills payable to Bearer on Demand.

21. No body corporate or person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand, of any such body corporate or of any such person :

Provided that cheques or drafts payable to bearer on demand or otherwise, may be drawn on bankers, shroffs, or agents, by their customers or constituents, in respect of deposits of money in the hands of such bankers, shroffs, or agents, and held by them at the credit and disposal of the persons drawing such cheques or drafts.

22. Any

22. Any body corporate or person committing any offence under section twenty-one shall, on conviction before a Magistrate of Police or a person exercising the full powers of a Magistrate, be punished with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

Every prosecution under this section shall be instituted by the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the Circle of Issue in which such bill, hundi, note or engagement is drawn, accepted, made or issued.

All fines imposed under this section may be recovered, if for offences committed outside the local limits of the Presidency towns, 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 those towns in force for the time being.

VI.—Miscellaneous.

23. An abstract of the accounts of the Department of Issue showing—

- (a) the whole amount of notes in circulation,
- (b) the amount of coin and bullion reserved, distinguishing gold from silver, and
- (c) the amount of the Government Securities held by the said Department; shall be made up monthly in Calcutta, and published as soon as may be in the *Gazette of India*.

24. All notes issued under this Act shall be deemed to be promissory notes of the Government of India, and may be described as promissory notes of the Government of India in all indictments, and in criminal and civil proceedings.

25. The Governor-General in Council may from time to time, by notification in the *Gazette of India*—

- (1) fix the amounts (not being less than five rupees) for which notes shall be issued under this Act,
- (2) alter the limits of any of the said Circles of Issue,
- (3) declare the places at which notes shall be issued under this Act,
- (4) fix the rates, rules and conditions at and according to which gold may be taken in exchange for Government promissory notes issued under this Act,

(5) fix

(5) fix the charge for melting and assaying bullion and foreign coin received for such notes,

(6) fix the interval on the expiration of which holders of certificates under section fourteen shall be entitled to receive such notes,

(7) regulate any matters relative to Paper Currency which are not provided for by this Act,

(8) 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:

Provided that no notification under clause (4) of this section shall have effect until six months have elapsed from the date of its appearance in the *Gazette of India*.

SCHEDULE.

Number and year of Act.	Title.
XIX. of 1861 ...	An Act to provide for a Government Paper Currency.
XXIV. of 1861 ...	An Act to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government for managing the issue, payment and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries.
I. of 1866 ...	An Act to amend Act XIX. of 1861 (to provide for a Government Paper Currency.)
XXX. of 1867 ...	An Act to amend Act XIX. of 1861 (to provide for a Government Paper Currency.)
XV. of 1870 ...	An Act for the further amendment of Act No. XIX. of 1861.

12.5.74

ACT N^O. IV. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 27th January 1871.)

THE CORONERS' ACT, 1871.

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AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO CORONERS.

Preamble. WHEREAS it is expedient to consolidate and amend the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

Short title.

1. This Act may be called "The Coroner's Act, 1871:—"

Local extent.

It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay;

Commencement.

And it shall come into force on the passing thereof.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

CHAPTER II.

CHAPTER II.—*Appointment of Coroners.*

3. Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts, there shall be a Coroner. Such Coroners shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

Coroners of Calcutta, Madras and Bombay.

4. Every such officer shall be appointed and may be suspended or removed by the Local Government.

Their appointment, suspension and removal.

Every person now holding such office shall be deemed to have been appointed under this Act.

Present Coroners.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

Coroners to be 'public servants.'

6. Any Coroner may hold simultaneously any other office under Government.

7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

Oath to be taken by Coroner.

CHAPTER III.—*Duties and Powers of Coroners.*

8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

Jurisdiction to enquire into deaths.

and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall, on conviction before a Magistrate, be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

10. Whenever

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

Power to hold inquests on bodies within local limits wherever cause of death occurred.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

Power to order body to be disinterred.

12. On receiving notice of any death mentioned in section eight, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Summoning jury.

Any inquest under this Act may be held on a Sunday.

Inquest may be on Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

Opening Court.

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

Jurors to be sworn.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

View of body.

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

Proclamation for witnesses.

17. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses: the Coroner shall enquire of such circumstances and the cause of the death; and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

Summoning witnesses.

Any person failing so to attend or give evidence shall be deemed to have committed an offence under section one hundred and seventy-four or one hundred and seventy-six of the Indian Penal Code, as the case may be.

For

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of Act No. XV. of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.*)

18. The Coroner may direct the performance of a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest: and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

Post mortem examinations.
Fees to medical witnesses.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Evidence to be on oath.
Evidence on behalf of accused.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

Interpreter.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

Questions suggested by jury.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

Coroner to take down evidence in writing.

Any witness refusing so to sign shall be deemed to have committed an offence under section one hundred and eighty of the Indian Penal Code.

Witnesses to sign depositions.

Every such deposition shall be subscribed by the Coroner.

Coroner to subscribe depositions.

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Adjournment of inquest.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

Juror's recognizances.

The

The amount of such recognizances shall in each case be fixed by the Coroner.

22. When all the witnesses have been examined the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

Coroner to sum up to jury.

23. When the verdict is delivered the Coroner draw shall up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

Coroner to draw up inquisition.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

Contents of inquisition.

- (1) where, when, and before whom the inquisition is holden,
- (2) who the deceased is,
- (3) where his body lies,
- (4) the names of the jurors, and that they present the inquisition upon oath,
- (5) where, when, and by what means the deceased came by his death, and
- (6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or by culpable homicide not amounting to murder, or by a rash or negligent act not amounting to culpable homicide, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or act to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

Procedure where verdict amounts to murder, culpable homicide, or killing by negligence.

The Coroner shall certify and subscribe such recognizances, and shall, immediately after the inquest, deliver them, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be.

Coroner to certify and deliver inquisition, depositions, and recognizances.

26. The

26. The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison until he is thence discharged by due course of law, or, if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

27. In cases where the jury has found against any person a verdict of culpable homicide not amounting to murder or of killing by a rash or negligent act not amounting to culpable homicide, the Coroner may, if he thinks fit, accept bail with sufficient sureties for the appearance of such person at the next criminal sessions, and thereupon such person, if in custody of any officer of the Coroner's Court, or in any gaol under a warrant of commitment issued by the Coroner, shall be discharged therefrom.

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the burial of the body on which the inquest has been taken.

29. No inquisition found upon or by any inquest shall be quashed for any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

30. It shall no longer be the duty of the Coroner to enquire whether any person dying by his own act was or was not *felo de se*, to enquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

A *felo de se* shall not forfeit his goods.

Deodands are hereby abolished.

CHAPTER IV.—Coroner's Juries.

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

32. The

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

CHAPTER V.—Rights and Liabilities of Coroners.

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor-General in Council.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

38. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests, and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

All inquest taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him;

Provided

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of three months from such fact or failure, nor after tender of sufficient amends.

FIRST SCHEDULE.

Number and year.	Title.	Extent of Repeal.
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.	Section one hundred and fifty-seven.
9 Geo. IV., cap. seventy-four...	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV. of 1848.....	An Act for regulating Coroners' Juries	The whole.
Act No. XLV. of 1850.....	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

SECOND

SECOND SCHEDULE.

Form of Inquisition.

AN INQUISITION taken at on the day of , 187 , before E F, Coroner of on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [or by a majority of] that the death of the said A B was caused, on or about the day of 187 , by [here state the cause of death as in the following examples—

1. Cases of homicide]—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [or accidental] homicide.
—a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [or culpable homicide amounting to murder, or a rash or negligent act not amounting to culpable homicide.]
2. Cases of accident]—falling out of a boat into the River Hughli, whereby he was drowned.
—a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. Cases of suicide]—shooting himself through the head with a pistol.
—arsenic, which he voluntarily administered to himself.
4. Cases of sudden death by means unknown]—disease of the heart.
—apoplexy.
—sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of
G H, I J, K L, M N, O P (jurors).

Mr. 18-371
RD
JRM

ACT NO. V. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 27th January 1871.)

THE PRISONERS' ACT, 1871.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO PRISONERS CONFINED BY ORDER OF A COURT.

Preamble.

For the purpose of consolidating the laws relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Prisoners' Act, 1871:—"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the passing thereof.

Repeal of Acts.

2. The Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of the said Schedule.

II.—PRISONERS IN THE PRESIDENCY TOWNS.

Warrants and writs to be directed to Police Officers.

3. 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 of Police within the local limits of such jurisdiction.

Power to appoint Superintendent of Presidency Prisons.

4. The Local Government may appoint officers who shall have authority to receive and keep prisoners committed to their custody under the provisions of this Part.

All such officers appointed under any Act hereby repealed, shall be deemed to be appointed under this Act.

Such

Such officers shall be called, in Calcutta, the Superintendent of the Presidency Prison, in Madras, the Superintendent of Prisons for the town of Madras, and in Bombay, by such title or respective titles as the Local Government from time to time directs.

Every such officer is hereinafter referred to as 'the Superintendent.'

5. The Superintendent is hereby authorized and required to keep and detain all persons duly committed to his 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 has been committed, or until such person is discharged by due course of law.

6. The 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 has been issued or made, together with a certificate endorsed thereon and signed by the Superintendent, showing 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 is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

8. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. Whenever any Judge of a High Court makes, 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, an order for the intermediate custody of an offender sentenced by a Court Martial holden

in

in India, the Judge shall order such offender to be detained for intermediate custody by the Superintendent.

10. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the Superintendent, together with a warrant of commitment.

11. Whenever any person is 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 is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the 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 Superintendent, together with a warrant of commitment, directing him to have the body of such person before the Court for trial, and the 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 he may be dealt with according to law.

13. Pending any such enquiry as is mentioned in section eight of Act No. XXIII. of 1861 (*to amend Act VIII. of 1859*), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

and the Superintendent is hereby authorized and required to detain such defendant in safe custody until he is 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 is 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

or in pursuance of a warrant of any Court established in Calcutta, 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 three 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, is then sitting for the exercise of original jurisdiction;

and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the 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. 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 to the 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*).

Warrants under Regulations for confinement of State prisoners.

III.—PRISONERS IN THE MOFUSSIL.

16. Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting under the authority of Her Majesty, or of the Governor-General in Council, or of any Local Government.

Officers in charge of prisons may give effect to sentences of certain Courts.

17. A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Warrant of officer of such Court to be sufficient authority.

18. Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Procedure where jailor doubts the legality of warrant sent to him for execution.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

19. The Local Government may authorize the reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences:—

Imprisonment in British India of persons convicted of certain offences in Native States.

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder.
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,
making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,
breach of trust,
house-burning,
house-breaking,
forgery, and
theft of cattle;

18. Any

or

or for an attempt to commit any of the above offences,
 or for abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive, or of any of the other offences above specified,
 or for such other offences as the Governor-General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe :

Provided that such sentences have been pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, or by the Governor-General in Council, is one of the presiding Judges.

20. Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

21. Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor-General in Council by general order, from time to time, directs ;

and may, during such time, be kept to hard labour ;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

22. All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

23. The

23. The Governor-General in Council may grant to any convict sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such conditions as to the Governor-General in Council seem fit.

The Governor-General in Council may at any time revoke or alter such license.

24. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

25. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

26. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

27. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the re-commitment of the convict to the prison from which he was released by virtue of the said license.

28. Such convict shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under

under an unrevoked license, is equal to the term mentioned in the original sentence.

29. If a license be granted under section twenty-three upon any condition specified therein, and the convict to whom the license is granted violates any such condition, or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—REMOVAL OF PRISONERS.

30. When any person is, or has been, sentenced to imprisonment by any Court, the Local Government, or (subject to its orders and under its control) the Inspector-General of Jails, may order his removal during the period prescribed for his imprisonment, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

31. Whenever it appears to the Local Government that any person, detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such person is of unsound mind, may order his removal to a lunatic 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 directs during the remainder of the term of imprisonment ordered by the sentence; or, if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then until he is discharged according to law.

When it appears to the said 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 the prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

The provisions of section nine 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 has been sentenced; and the time

Penalty for breach of condition of the license.

Removal from one jail to another in territories under Local Government.

Removal of lunatic prisoners.

Remand on recovery.

Discharge.

Act XXXVI. of 1858, Section 9, applied to prisoners in lunatic asylum.

time during which he has been so confined shall be reckoned as part of such term.

32. When any person is, or has been, sentenced to imprisonment by any Court, the Governor-General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

Government of India may order removal of prisoners from one prison to another.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

33. The Governor-General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered.

Power to appoint persons to whom convicts shall be delivered.

34. The Governor-General in Council may, from time to time, prescribe rules as to the following matters:—
the classification of convicts;
their confinement, treatment, discipline, and employment;
their punishment for misbehaviour, disorderly conduct, neglect, or disobedience; and
the manner in which the proceeds (if any) of their employment shall be disposed of.

Power to make rules as convicts.

VII.—DISCHARGE OF CONVICTS.

35. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

Discharge of convicts recommended for pardon.

SCHEDULE.

(See Section 2.)

Number and year of Act.	Subject or Title.	Extent of Repeal.
VII. of 1837	Charter Courts' power to discharge convicts recommended for pardon.	The whole.
XVI. of 1840	An Act concerning the management of Convicts transported to places within the territories of the East India Company.	The whole.

Number and year of Act.	Subject or Title.	Extent of repeal.
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.	Sections five, six, seven, nine, ten, eleven, and twelve.
XVII. of 1860	... An Act to repeal Act V. of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
XXV. of 1861 } VIII. of 1869 }	... The Code of Criminal Procedure ...	Sections forty-nine, forty-nine A, and three hundred-and-ninety-six.
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.	The whole.
VIII. of 1865	... An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.	The whole.
II. of 1867	... An Act to make further provision for the removal of prisoners.	The whole.
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, Madras, and Bombay.	The whole.
XXVI. of 1869	... An Act to correct a clerical error in Act No. VIII. of 1863.	The whole.

ACT NO. VI. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th February 1871.)

THE BENGAL CIVIL COURTS ACT, 1871.

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AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE DISTRICT AND SUBORDINATE CIVIL COURTS IN BENGAL.

WHEREAS it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the Governments of the Lieutenant-Governors of the Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

Short title.

1. This Act may be called "The Bengal Civil Courts Act, 1871."

It extends to the territories for the time being respectively under the Governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhānsi Division.

Except this section and sections seventeen, twenty-nine and thirty, nothing herein contained applies to Courts of Small Causes established under Act No. XI. of 1865.

Commencement of Act.

This Act shall come into force on the passing thereof.

2. The Regulations and Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of such Schedule.

Repeal of enactments.

CHAPTER II.—*Constitution of Civil Courts.*

3. The number of District Judges to be appointed under this Act shall be fixed, and may, from time to time, be altered by the Local Government.

Number of District Judges.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may from time to time be altered, by the Local Government.

Number of Subordinate Judges and Munsifs.

5. Whenever

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor-General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.

6. Whenever the office of a Munsif is vacant, or when the Governor-General in Council has sanctioned an increase of the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor-General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

7. When the business pending before any District Judge requires the aid of Additional Judges for their speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor-General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under Chapter III. of this Act that the District Judge may, with the sanction of the High Court, assign to them, and, in the performance of such duties, they shall exercise the same powers as the District Judge.

8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an Officer duly appointed thereto.

9. In

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him,

the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the action of the High Court under section six, appoint such person as he thinks fit to act in such office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

10. The Local Government may invest with the powers of any Court under this Act any officer in the District of Kachar and the Divisions of Assam, Chota Nagpur and Kuch Behar.

Nothing in sections three to nine (inclusive), thirty-two, thirty-three and thirty-four, applies to any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

11. The general control over all the Civil Courts in any District is vested in the District Judge, but subject to the superintendence of the High Court.

12. The present Judges of the Zila Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged and shall be the first District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

13. Every District Judge, Additional Judge, Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the following form:—

"I, A B, appointed to the office of _____ of _____ do solemnly declare that, in the trial and determination of all suits which may come

come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) A B,

District [or Additional or Subordinate] Judge of [or Munsif of]"

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by an Additional Judge, a Subordinate Judge or Munsif, before the District Judge or the Magistrate of the District.

14. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

District Judges, Subordinate Judges and Munsifs to be deemed Civil Courts.

15. Every District Judge, Additional Judge, Subordinate Judge and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

Power to fix sites of Courts.

16. The Local Government may fix, and, from time to time, alter the place or places at which any Court under this Act is to be held.

17. Subject to such orders as may from time to time be issued by the Governor-General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official *Gazette*, and the said days shall be observed accordingly.

CHAPTER III.—*Ordinary Jurisdiction.*

Power to fix local limits of jurisdiction.

18. The Local Government shall fix, and may, from time to time, vary the local limits of the jurisdiction of any Civil Court under this Act:

Provided

Provided that where more than one Subordinate Judge is appointed to any District, and where more than one Munsif is appointed to any Munsifi, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular jurisdiction within such District or Munsifi, as the case may be.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to be fixed under this Act.

19. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions in the Code of Civil Procedure, section six, to all original suits cognizable by the Civil Courts.

Extent of original jurisdiction of District Judge or Subordinate Judge.

20. The jurisdiction of a Munsif extends to all like suits in which the amount or value of the subject-matter in dispute does not exceed one thousand rupees.

Extent of Munsif's jurisdiction.

21. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court.

Appeals from District Judge and Additional Judges.

22. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court:

Appeals from Subordinate Judges and Munsifs.

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

Power to require witnesses or parties to be sworn.

23. Every Court under this Act may require a witness or party to any suit or proceeding pending in such Court, to take such oath as is prescribed by the law for the time being in force.

24. 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 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,

Certain decisions to be according to Native law.

except

except in so far as such law has, by legislative enactment, been altered or abolished.

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.

25. No Munsiff, Subordinate Judge, Additional Judge or District Judge shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

Judges not to try suits in which they are interested.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.—*Special Jurisdiction.*

26. Every District Judge may, from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

Power to refer to Subordinate Judges appeals from Munsifs.

The District Judge may withdraw any appeals so referred and hear and dispose of appeals so withdrawn.

27. The High Court may, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under the Code of Civil Procedure, sections thirty-six, seventy-six, eighty-five, ninety-four, one hundred and nineteen, two hundred and thirty-one and two hundred and fifty-seven, or under Act No. XXIII. of 1861, section eleven.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

The High Court may also, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District

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trict Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say),—

(1). Proceedings under Bengal Regulation V., 1799 (*to limit the interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of Persons dying intestate*).

(2). Proceedings 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. IX. of 1861 (*to amend the law relating to Minors*).

(3). Claims to attached property under the Code of Civil Procedure, section two-hundred-and-forty-six.

(4). Applications by judgment-debtors under section two-hundred-and-seventy-three or section two-hundred-and-eighty of the same Code.

(5). Applications to file awards under section three-hundred-and-twenty-seven of the same Code.

(6). Applications for permission to sue or appeal as a pauper.

(7). Applications for certificates 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*).

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

28. Subject to the provisions of the last clause of section twenty-seven, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Disposal of proceedings so transferred.

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

29. The

29. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

Power to invest Subordinate Judges with Small Cause jurisdiction.

30. Section fifty-one of 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*), shall be read as if for the words "Principal Sadr Amín," the words "Subordinate Judge" were substituted.

Amendment of Act XI. of 1865.

CHAPTER V.—Misfeasance.

Suspension or removal of District Judge or Additional Judge.

31. Any District Judge, Additional Judge, Subordinate Judge, or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge.

32. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsifs by High Court.

33. The High Court may appoint a Commission for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act No. XXXVII. of 1850 (*for regulating enquiries into the behaviour of public servants*), shall apply to enquiries under this section, the powers conferred by that Act on the Government, being exercised by the High Court.

The High Court may also, previous to the appointment of such Commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such Commission, remove or suspend any Munsif, or reduce him to a lower grade.

34. Any

Suspension of Munsifs by District Judges.

34. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.—Ministerial Officers.

Appointment and removal of Ministerial Officers of District Courts.

35. The Judges of the District Courts shall appoint the Ministerial Officers of such Courts, and, subject only to the general control of the Local Government, the said Judges may remove or suspend such Officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of Ministerial Officers of Subordinate Judges and Munsifs.

36. The Ministerial Officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order.

Nothing in this section or in section thirty-five shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

37. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the Ministerial Officers of such Judge or of any Subordinate Judge or Munsif under his control.

The District Judge may transfer all or any of the Ministerial Officers of any Court under his control to any other such Court.

Recovery of fines.

38. Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered by deduction from the offender's salary.

SCHEDULE,

SCHEDULE.

PART I.—BENGAL REGULATIONS.

Number and year.	Title.	Extent of Repeal.
III., 1793	... A Regulation for extending and defining the jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature for the trial of civil suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
IV., 1793	... A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.	Section fifteen.
VII., 1795	... A Regulation for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying civil suits, in the first instance, at the City of Benares, and at Mirzapore, Ghazee-pore, and Jaunpore, in the Province of Benares, and for defining the Jurisdiction and Powers of those Courts.	So much as has not been repealed.
VIII., 1795	... A Regulation for extending to the Province of Benares, with alterations and modifications, Regulation IV., 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants.	Section three.
I I., 1803	... A Regulation for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the trial of civil suits in the first instance, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	So much as has not been repealed.
III., 1803	... A Regulation for receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several zillahs in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	Section sixteen, clause one.
VIII., 1805	... A Regulation for extending to the conquered Provinces situated within the Dooab and on the right bank of the River Jumna, and to the Territory ceded to the Honourable the English East India Company in Bundelcund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations.	Section six and so much of section seven as extends Regulation III., 1803, section sixteen, clause one.

PART I.—Continued.

Number and year.	Title.	Extent of Repeal.
VII., 1832	... A Regulation for modifying certain of the Provisions of Regulation V., 1831, and for providing Supplementary Rules to that Enactment.	So much as has not been repealed.
VIII., 1833	... A Regulation for the occasional appointment of Additional Judges of the Zillah and City Courts.	The whole.

PART II.—Acts.

Number and year.	Title.	Extent of Repeal.
IX. of 1844	... An Act for authorizing the institution of suits in the Courts of Principal Sudder Ameens and Sudder Ameens.	Section three so far as it applies to the Bengal Presidency.
L. of 1860	... An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
XVI. of 1868	... An Act to consolidate and amend the law relating to Principal Sadr Amins, Sadr Amins, and Munsifs in Bengal, and for other purposes.	The whole.
II. of 1870	... An Act to provide for the appointment of additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

ACT^NO. VII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th March 1871.)

THE INDIAN EMIGRATION ACT.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO THE EMIGRATION OF NATIVE LABOURERS.

Preamble. WHEREAS it is expedient to consolidate the laws relating to the Emigration of Native Labourers; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Indian Emigration Act, 1871."

Local extent. It extends to the whole of British India;
Commencement of Act. And it shall come into force on the passing thereof.

Acts repealed. 2. The Acts mentioned in the first schedule hereto annexed are repealed. All contracts entered into, appointments made, and licenses granted, under any of the said Acts, shall be deemed to be respectively entered into, made and granted under this Act.

Interpretation-clause. 3. In this Act—

"Emigrate" denotes the departure of any Native of India out of British India for the purpose of labouring for hire in some other place; and the word "Emigrant" denotes any Native of India under engagement to emigrate:

"Magistrate" denotes any officer exercising the full powers of a Magistrate and in charge of a District, a Division, or a Sub-Division:

"Vessel" includes anything made for the conveyance by water of human beings or property.

II.—EMIGRATION AGENTS.

Appointment of Emigration Agents. 4. The Government of every place to which emigration is lawful under this Act may, from time to time, appoint a person to act as Emigration Agent in Calcutta, Madras and Bombay respectively, but such nomination shall be subject to the approval of the Local Government.

Every Emigration Agent may be suspended or removed by the Government which appointed him.

Remuneration of Agents. 5. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

III.—PROTECTORS

III.—PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants. 6. The Local Government may appoint a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and may with the sanction of the Governor-General in Council assign to such person such salary and establishment as shall be deemed proper.

Every Protector of Emigrants may be suspended or removed by the Local Government to which he is subordinate.

No Protector to hold other office without permission. 7. No Protector of Emigrants appointed under this Act shall, except with the permission of the Local Government, hold any other office under Government, or follow any other profession or occupation.

General duties of Protectors of Emigrants. 8. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with.

Inspecting vessels with return Emigrants. He shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated and also during the voyage, and shall make a report thereon to the Local Government, and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

Appointment of Medical Inspector. 9. At each of the three ports aforesaid, the Local Government may appoint a competent person to be Medical Inspector of Emigrants; and may, with the sanction of the Governor-General in Council, assign to the Medical Inspector so appointed such salary as is deemed proper.

Depots to be established in Calcutta, Madras, and Bombay. 10. In each of the Towns of Calcutta, Madras and Bombay, or in the suburbs of those Towns, the Emigration Agent of every place to which emigration is lawful under this Act, shall establish a suitable depot for the persons engaged as labourers for such place.

Licensing of depots. 11. Every depot shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants.

No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he considers that the depot for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the depot was established.

For every license granted under this section there shall be paid to the Protector a fee of fifteen rupees.

12. Every Protector of Emigrants and every Medical Inspector of Emigrants shall from time to time, and at least once in every week, inspect the Emigrants in the various depots for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depots, and the manner in which the Emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.

13. The Medical Inspector shall report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depot is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

14. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

15. Every Emigration Agent, and all persons in charge of or employed in any depot, or in any vessel licensed to carry Emigrants as hereinafter provided, shall give the Protector and the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford them all such information as may be reasonably required by them.

IV.—RECRUITERS OF LABOURERS.

16. The Protector of Emigrants at each of the three ports aforesaid, and the British Consular Agent at each of the French ports in India, shall license so many fit persons as to him seems necessary, to be Recruiters of labourers,

and no person shall act or be employed as a Recruiter of labourers except under a license from a Protector of Emigrants or British Consular Agent.

17. Every Recruiter shall be licensed to obtain labourers for some particular place to which emigration is lawful under this Act, and no license

license to obtain labourers for any place shall be granted except on the application of the Emigration Agent of such place.

18. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

19. Every license shall be in the form set forth in the second schedule hereto annexed.

For every license there shall be paid to the Protector a fee of fifteen rupees.

20. Every person holding a license as a Recruiter of labourers shall wear a badge bearing the following inscription in English and in the vernacular language of the Town, District or Districts in which he is licensed to engage labourers:—"Recruiter of Emigrants for the Mauritius" (*or other place as the case may be.*)

21. No Recruiter shall engage or attempt to engage labourers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon.

Such countersignature shall be given, provided that the license is in force at the time.

V.—CONTRACTS WITH EMIGRANT LABOURERS.

22. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labour to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating:

provided that nothing in this Act shall apply—

to any contract with any Native of India for labour to be performed in any Foreign Settlement on the mainland of India or in any Native State in India;

to emigration to any such Settlement or State;

to any contract for labour to be performed in, or to emigration to, the Island of Ceylon; or

to any contract with or the emigration of any Native seaman or other person who of his own free will contracts to navigate or serve on board of any vessel or

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who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only, and who embarks as such menial servant.

Places for emigration to which contracts may be made with Natives.

23. Contracts may be made with Natives of India to emigrate—

to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts and Seychelles ;

to any of the French Colonies of Reunion, Martinique, Guadeloupe and its dependencies, and Guiana,

and to the Danish Colony of St. Croix ;

and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

24. The Governor-General in Council may, from time to time, by notification published in the *Gazette of India*, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in section twenty-three:

Power to legalize emigration to other places.

provided that every such notification contain also a declaration, that the Governor-General in Council has been duly certified that the Government of the place to which the notification refers has

Proviso.

made such laws and other provisions as the Governor-General in Council thinks sufficient for the protection of Natives of India emigrating to such place.

25. From the date of any such notification contracts may be made with any Native of India for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place;

Contracts may be made for emigration to such other places.

but all contracts and emigration under such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

26. Emigration shall not be lawful except from the port of Calcutta, the port of Madras or the port of Bombay.

VI.—REGISTRATION OF EMIGRANTS.

27. Every Native of India, who in any place other than the Towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, before leaving the District within which the engagement was entered into, appear with

Natives engaging to emigrate to appear before Magistrate.

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the Recruiter before a Magistrate, and no Recruiter shall remove such Emigrant from the said District until he has so appeared.

Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement ; and if it appears that he understands the nature of the engagement he has entered into and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

- (a) the name, name of the father, and the age, of such Emigrant,
- (b) the name of the village or place of which such Emigrant is a resident,
- (c) the Emigration depot to which it is intended he shall proceed, and
- (d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Magistrate thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

28. Authentic copies of every such registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depot to which the person named therein has been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Copy of registration to be sent to Emigration Agent and Protector.

29. Every Native of India, who in the towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Protector of Emigrants in such town ; and no Recruiter shall remove such Emigrant from the said town, or to any Emigration depot, until he has so appeared.

Registration of Emigrants recruited in presidency towns.

Upon his so appearing, the protector of Emigrants shall examine the intending Emigrant with reference to his engagement ; and if it appears that he understands the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

- (a) the name, the name of the father, and the age of such Emigrant,

(b) the

- (b) the name of the village or place of which such Emigrant is a resident,
 (c) the Emigration depot to which it is intended he shall proceed, and
 (d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Protector of Emigrants thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

30. An authentic copy of every such Registration shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein has been engaged.

Copy of Registration by Protector to be forwarded to Agent.

31. For the registration of every Emigrant under section twenty-seven or twenty-nine, the Recruiter shall pay to the Magistrate or the Protector of Emigrants, as the case may be, a fee of one rupee and eight annas.

Free for registration by Protector.

On proof of the desertion of any Emigrant before embarkation, the fee paid in respect of such Emigrant may be refunded by the Magistrate or the Protector to the Recruiter by whom it was paid, under such rules as are from time to time made in that behalf by the Governor-General in Council.

VII.—CONVEYANCE OF EMIGRANTS TO DEPOTS.

32. (1.) Every Emigrant recruited under the provisions of this Act shall be conveyed by land or river with all convenient despatch to the depot, at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to Emigrate.

Conveyance of Emigrant to depot.

(2.) The registered Emigrants engaged by any Recruiter shall, while proceeding to a depot, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depot.

Emigrants to be accompanied by Recruiter.

(3.) Every Recruiter by or through whom Emigrants may be forwarded to a depot shall, throughout their journey, provide them with suitable lodging and food.

Recruiter to provide suitable food and lodging.

VIII.—ARRIVAL AT DEPOTS AND PROCEDURE THEREON.

33. The arrival of each Emigrant at a depot shall immediately be reported by the person in charge of the depot to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Arrival at depot to be reported.

34. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be shewn to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed.

Copy of registration to be shown to Medical Inspector.

Emigrants to be inspected by him.

The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

35. If the Medical Inspector certifies that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity has occurred in the recruitment of any Emigrant,

When emigrant to be sent back to place of registration.

the Protector of Emigrants may order the Emigration Agent in whose dépôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the labourer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the labourer to such place.

36. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to or on behalf of the Emigrant.

Failure of Emigration Agent to pay sum required to enable Emigrant to return.

Every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it is paid, as money paid to the use of such Emigration Agent.

No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay such money, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith.

Provided that every Emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration

VIII.—ARRIVAL

Emigration Agent, be entitled to continue in the dépôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector otherwise orders.

37. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the dépôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the dépôt.

The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under section twenty-seven or section twenty-nine. If for any reason further enquiry be necessary, such enquiry shall be made forthwith.

Unless the Emigration Agent, with the consent of the Protector, refuses to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy, if it be a copy furnished under section twenty-seven, shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under section twenty-nine shall be countersigned by the Emigration Agent alone. The copy so countersigned, under whichever section it may have been furnished, shall be delivered back to the Emigrant.

If the Emigration Agent, without the consent of the Protector, refuses to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the Emigrant to return to the place where he was registered. On failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant. All the provisions of section thirty-six as to sums paid by the Protector shall apply, so far as the circumstances of the case permit, to sums paid by him under this section.

The Protector shall also, in every case in which it seems to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent.

In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

38. After

38. After the examination mentioned in section thirty-seven, and if the Medical Inspector has given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and the age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

39. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under sections thirty-seven and thirty-eight, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make.

If such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the pass delivered by the Emigrant Agent.

IX.—EMIGRANT VESSELS.

40. (1.) It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel has been obtained from the Local Government. The granting or withholding any such license shall be in the discretion of the Local Government.

(2.) The Master or owner of any vessel who desires to obtain a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the Local Government for such license.

(3.) Every such application shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

(4.) The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her seaworthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the tackle requisite for her voyage.

(5.) The Protector of Emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

(6) In

(6.) In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and, before any Emigrant embarks on board of such vessel, execute in duplicate a bond, in such form as the Local Government prescribes, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions in this Act provided. The Protector of Emigrants shall require the Master to execute such bond as aforesaid in duplicate, and shall forward one copy of it to the Government of the place to which the Emigrants are to be carried (or in the case of a French colony to the British Consular Agent at such colony) and the other copy of it to the Local Government.

41. (1.) No certificate under section forty shall be granted, unless there be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

(2.) No compartment shall take more than one adult Emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who has completed two and has not completed ten years of age for every eight superficial feet on deck.

(3.) A distinct and separate place shall be fitted up for a hospital in every Emigrant vessel.

(4.) Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

(5.) An Emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.

42. (1.) There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which they embark,

(a.) good and wholesome provisions for the use and consumption of the said Emigrants (over and above the victualling of the Captain, officers and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor-General in Council under section fifty-six,

(b.) fuel for cooking such provisions, and

SCHEDULE.

(c.) a supply of water, to the amount of seven gallons for every week of the probable length of the voyage for every Emigrant on board such vessel. Such water shall be carried in tanks to be approved by the Protector of Emigrants.

(2.) Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by rules made under section fifty-six.

(3.) When any vessel is destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable length of the voyage to such port or place shall be deemed to be a compliance with this section.

The probable length of the voyage to such port or place shall be determined from time to time by the Protector of Emigrants, subject to the approval of the Local Government.

(4.) When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this section.

(5.) The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of this section are complied with.

43. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage.

Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the tropics.

44. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, the Master of such vessel shall obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates, under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say :—that such Protector and Emigration Agent have, in respect of the Emigrants

grants proceeding in such vessel, done all that is hereinbefore required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions herein contained for ensuring the health, comfort and safety of the Emigrants have been duly complied with, as well as all such rules as the Governor-General in Council from time to time frames under section fifty-six.

X.—EMBARKATION.

45. If any Emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere: but nothing in this section shall diminish or affect the civil or criminal liabilities, which such Emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Emigrants refusing to embark.

Proviso.

Every case in which an Emigrant is charged before a Magistrate of Police in a Presidency Town with refusing or neglecting to embark without sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such labourer shall, on conviction, be punished in the manner provided in section four hundred and ninety-two of the Indian Penal Code for the punishment of offences under that section.

46. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration is lawful under this Act, at all times of the year.

Time of sailing for places East of Cape of Good Hope.

For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first day of July and the first day of March, unless they embark in vessels using steam-power, in which case they may leave at any time of the year.

For other places.

Provided that, in cases of emergency, the Local Government may permit Emigrants for any place West of the Cape of Good Hope to leave between the thirty-first day of July and the first day of April.

47. The protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease.

Emigrant unfit to undertake voyage.

If the Protector of Emigrants is of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark,

embark, the Protector shall refuse to permit his embarkation, and the husband, wife, father, mother, or child of such Emigrant may, notwithstanding anything herein contained, refuse to embark.

The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that he has in his possession the copy of the registration provided under section twenty-seven or section twenty-nine.

If it appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost such copy, the Protector may furnish such Emigrant with another copy of such registration, to be made from the copy received by the Protector from the Magistrate under section twenty-seven or from the Register kept by himself under section twenty-nine, and shall thereupon allow such Emigrant to embark.

48. The Protector of Emigrants shall explain to all Emigrants, prior to their embarkation, the substance of the provisions of this Act so far as they immediately affect such Emigrants.

Provisions of Act to be explained.

49. (1.) When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

Procedure on embarkation.

(2.) On embarkation, every Emigrant shall deliver to the Master of the vessel the pass granted to him under section thirty-eight; and the Master shall not receive any Emigrant on board unless he delivers up such pass. The Master shall compare the Emigrants who embark and the passes delivered by them with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

Emigrant to give his pass to Master.

(3.) The Protector of Emigrants shall be personally present at the embarkation of all Emigrants, and shall see that the Master duly compares the list with the passes and Emigrants, and he shall himself also compare the list with the passes and Emigrants.

Protector to be personally present.

(4.) The Medical Inspector shall also be personally present at the embarkation of all Emigrants and shall examine each Emigrant to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed; and the provisions of sections thirty-four, thirty-five and thirty-six shall apply, *mutatis mutandis*, to Emigrants examined under this clause.

Examination by medical officer.

(5.) When

(5.) When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filled in the office of the Protector of Emigrants.

One copy of list of Emigrants given to Protector, to be signed and returned to Master.

Emigrant not having pass not to be allowed to remain on board.

(6.) The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a pass, or is not mentioned in the list aforesaid.

(7.) Every pass delivered up to the Master of a vessel under this section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

Pass to be returned to Emigrant on arrival at place of destination.

50. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the lists of Emigrants mentioned in section forty-nine, duly signed by the Master.

Copy of list of Emigrants to be signed by Emigration Agent and returned to Master.

The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper officer, at such place.

And by him to be delivered at place of destination.

51. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the passes of the Emigrants and from the list signed by the Master as aforesaid.

Protector to send list of Emigrants to Government of place to which they sail.

Vessel sailing from Calcutta to depart within twenty-four hours of embarkation.

52. The Master of every vessel carrying Emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

Vessels sailing from Calcutta to be towed to sea.

53. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.

54. Two

54. Two copies of this Act and of all rules made by the Governor-General in Council under section fifty-six, and two copies of a translation of this Act and of such rules, in such language or languages as the Local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

Copies of Act and rules to be kept on board.

One of such copies or translations shall, upon request made at any reasonable time to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

55. In case of sickness breaking out on board of any vessel conveying Emigrants to Seychelles, such Emigrants may be taken to the quarantine-station of Mauritius.

Taking Emigrants for Seychelles to quarantine-station of Mauritius.

In such case the Emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.

XI.—SUPPLEMENTARY POWERS.

Power of the Governor-General in Council to make rules.

56. The Governor-General in Council may from time to time make rules consistent with this Act,—

(1.) To regulate the proportion of women to be taken with Emigrants, the proportion of children to be taken with adults, and the age below or above which children shall not be taken;

(2.) To prescribe the description, quantity and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

(3.) To provide for the medical care of Emigrants during their residence at the depôts and on their voyages;

(4.) To prescribe the nature, quality and quantity of medical drugs and other stores to be carried on board such vessels;

(5.) To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

(6.) To

(6.) To provide for a journal being kept, by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death ;

(7.) And generally to provide for the security, well-being, and protection of Emigrants.

All such rules shall be published in the *Gazette of India* and shall have effect as if they were contained in this Act.

Provided that, in cases of emergency, the Local Government may permit any vessel carrying Emigrants to leave port although the proportion of women or children embarked on board such vessel is not in accordance with the said rules.

57. Whenever the Governor-General in Council has reason to believe that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage, the Governor-General in Council may, by notification published in the *Gazette of India*, declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

58. After any notification has been published under section fifty-seven, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification : but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

59. During the time of such suspension any provisions of this Act prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any Native of India out of the British territories in India, shall take effect so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

60. Whenever the Governor-General in Council is satisfied that, in the place specified in any notification under section fifty-seven, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return-passages to India for such emigrants at or about the time at which they are entitled

entitled to such return-passages, the Governor-General in Council may notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification,

Thereupon all the provisions of this Act authorizing emigration to such place shall, from the day so specified, be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

61. Whenever the Governor-General in Council or the Local Government has reason to believe that, in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India,

or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage,

the Governor-General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Governor-General in Council under this section may be cancelled by notification in the *Gazette of India*.

Any notification issued by the Local Government under this section may be cancelled by order of the Governor-General in Council, or by the Local Government.

62. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, increase any fee payable under sections eleven, nineteen and thirty-one and may also in like manner reduce to its present amount any fee so increased :

Provided that no fee shall be increased under this section by more than double such amount.

XII.—SPECIAL PROVISIONS AS TO FRENCH COLONIES.

63. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras and Bombay. Provided that such person, before entering on the duties of his office under this Act, has been approved by Her Majesty.

64. The

64. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native labourers for all or any of the French Colonies aforesaid.

65. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native labourers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and the advantages afforded to the Emigration Agents for British Colonies.

66. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of labourers emigrating under the provisions of this Part of this Act.

In French Ports in India the duty imposed on the British Consular Agents by Article V. of the Convention printed in the third schedule hereto annexed shall be performed under such instructions as may be given by the Governor-General in Council in this behalf.

67. All contracts of service made with labourers emigrating to French Colonies under this Act, except the contracts mentioned in clause four of Article IX. and clause two of Article X. of the said Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he is allotted by the proper authority on his arrival in the Colony to which he emigrates.

68. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

(1.) The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which he may abandon or renounce his right to a free return-passage.

(2.) The number of days and hours of work.

(3.) The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

(4.) Gratuitous

(4.) Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government officer, his illness has arisen from his own misconduct.

(5.) In every contract of engagement there shall be inserted an exact copy of Articles IX., X., XX. and XXI. of the said Convention.

69. The Governor-General in Council may, by order to be published in the *Gazette of India*, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the said Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony.

Such declaration shall have the same effect as if it formed part of this section.

70. Every Emigrant vessel sailing to a French Colony shall carry an European Surgeon and an Interpreter.

XIII.—PENALTIES.

71. Whoever, except under and in conformity with the provisions of this Act, makes any contract with any Native of India for labour to be performed in any place beyond British India to which emigration is not authorized under this Act, shall be deemed to have committed the offence specified in section three hundred and sixty-three of the Indian Penal Code;

And whoever knowingly enables or assists any Native of India to emigrate to any such place, or aids in or abets the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

72. Whoever, not being a Recruiter duly licensed under this Act, acts or is employed as a Recruiter of labourers, or contrary to the provisions of this Act, enters into any contract with a Native of India for labour to be performed by such Native in any place beyond British India, shall be liable to a fine not exceeding five hundred rupees.

73. Whoever, being a duly licensed Recruiter, removes any Emigrant whom he may engage in any district or place other than the towns of Calcutta, Madras or Bombay, from such district or place, without such Emigrant having appeared along with the Recruiter before a Magistrate in order that the Emigrant might be examined and registered;

and

and whoever removes any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras or Bombay, from such town, or to an emigration depôt without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that the Emigrant might be examined and registered;

and whoever by means of intoxication, violence, fraud, or false pretences induces any Native of India to enter into a contract for labour to be performed by him in any place to which emigration is lawful under this Act, or to proceed to any such place without having entered into any contract;

and whoever fails to supply any Emigrant whom he has engaged and who is registered, with suitable food, or otherwise ill-treats such Emigrant on his journey to the depôt;

and whoever forwards, sends or conveys any such emigrant otherwise than is provided in section thirty-two, or to any house or place in or near the Towns of Calcutta, Madras or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant has contracted to labour,

shall be liable to a fine not exceeding five hundred rupees.

74. Whoever, being a duly licensed Recruiter, forwards or sends any Emigrant from the district or town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of sections twenty-seven and twenty-nine;

and whoever, being a duly licensed Recruiter, induces or knowingly permits any such Emigrant to leave such district or town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid,

shall be liable to a fine not exceeding five hundred rupees.

75. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure labourers to proceed to any place beyond British India, or falsely represents that such labourers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred rupees.

76. The

76. The Master of any vessel which has not been licensed as provided in section forty, knowingly receiving any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, shall be liable to imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

77. If the Master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any Emigrant without having fully complied with every particular required in sections forty-one and forty-two, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

78. If the Master of any vessel, after having cleared such vessel for any place to which emigration is lawful under this Act, takes on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in sections forty-nine and fifty, and in the manner in those sections prescribed, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

79. If after having obtained a certificate in accordance with the provisions of section forty, the Master of any vessel cleared for any place to which emigration is lawful under this Act, fraudulently does, or suffers to be done, any act or thing whereby such certificate becomes inapplicable to the altered state of the vessel or other matter to which such certificate relates, he shall be liable to a fine not exceeding five thousand rupees,

and he may also be sued on any bond which he may have executed in consideration of any license obtained for the vessel as originally described.

80. If the Master of a vessel sailing from the port of Calcutta, licensed under section forty and sailing with Emigrants on board, without reasonable excuse causes or allows his vessel to proceed from Garden Reach to sea, or to proceed any part of the distance between Garden Reach and sea, without his vessel being under tow of a competent steamer,

or if such vessel has not left Garden Reach and proceeded on her voyage within the time prescribed in section fifty-two,

the Master of such vessel shall be liable to a fine not exceeding one thousand rupees.

81. All

81. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration is lawful under this Act, and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

82. All prosecutions under this Act shall be instituted on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an officer appointed for the purpose by the Local Government, before a Magistrate of Police, or before a Magistrate, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the towns of Calcutta, Madras and Bombay.

Prosecutions under this Act where and how instituted.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the said towns, 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 fines.

XIV.—MISCELLANEOUS.

83. The probable length of the voyages to the places mentioned in section twenty-three, from Calcutta, Madras or Bombay respectively, shall, for the purposes of this Act, and in the case of sailing vessels, be deemed to be as follows:—

Probable length of voyages to places mentioned in section twenty-three.

FROM CALCUTTA:—

To Mauritius, Seychelles and Réunion... { Between the months of April and October inclusive, ten weeks; and between the months of November and March inclusive, eight weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix, Martinique, Guadeloupe and its dependencies ... } Twenty weeks.

To French Guiana... ... Twenty-six weeks.

To Natal Twelve weeks.

FROM

FROM MADRAS:—

To Mauritius, Seychelles and Réunion... { Between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana ... } Nineteen weeks.

To Natal Ten weeks.

FROM BOMBAY:—

To Mauritius, Seychelles and Réunion... { Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana ... } Nineteen weeks.

To Natal Ten weeks.

In the case of vessels propelled either wholly or in part by steam the Local Government may, by notification in the Official *Gazette*, fix, for the purposes of this Act, the probable length of the voyages aforesaid.

84. Every notification under section twenty-four shall state the probable length of the voyages from Calcutta, Madras and Bombay, respectively, to every place to which emigration is thereby authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Notification legalizing emigration to new place to give probable length of voyages thither.

85. The Local Government may from time to time authorize any person invested with the powers of a Magistrate, as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District.

Exercise of powers of Magistrate of the District under this Act.

Every

Every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate."

86. Nothing in this Act or in any rule to be made by the Governor-General in Council under section sixty-one shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act and rules made under it not to apply to certain vessels.

THE FIRST SCHEDULE.
(See Section 2.)

Number and year.	Title.
XLVI. of 1860	To authorize and regulate the Emigration of Native Labourers to the French Colonies.
VII. of 1862	To amend Act XLVI. of 1860 (to authorize and regulate the Emigration of Native Labourers to the French Colonies.)
XIII. of 1864	To consolidate and amend the laws relating to the Emigration of Native Labourers.
VI. of 1869	To amend the law relating to the Emigration of Native Labourers.
VI. of 1870	To enable the Governor-General in Council to increase the fee payable under section thirty-one of the Emigration Act.

THE SECOND SCHEDULE.
(See Section 19.)

Office of the Protector of Emigrants at the Port of Indian Emigration Act, 1871, to be a Recruiter for engaging persons to proceed to the purpose of labouring for hire.
This license will be in force for one year only from this date.
Dated the day of

A B is hereby licensed under the
(Signed) C.D.,
Protector of Emigrants.

THE THIRD SCHEDULE.
(See Sections 66, 67, and 68.)

Convention between Her Majesty and the Emperor of the French relative to the Emigration of Labourers from India to the French Colonies, with an additional article thereto annexed.
Signed at Paris, July 1861
[Ratifications exchanged at Paris, July 30th, 1861.]

His Majesty the Emperor of the French having made known, by a declaration dated this day (1st July 1861) his resolution to put an end to the recruitment upon the coast of Africa of negro labourers by means of redemption ; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland desiring, in consequence, to facilitate the immigration of free labourers into the French Colonies, their said Majesties have resolved to conclude a Convention destined to regulate the recruitment of such labourers in the British Territories in India. For this purpose they have named as their Plenipotentiaries :—
Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Most Honourable Henry Richard Charles Earl Cowley, Her Majesty's Ambassador Extraordinary and Plenipotentiary to the Emperor of the French ;
And His Majesty the Emperor of the French, M. Edouard Antoine Thouvenel, Senator, His Minister and Secretary of State for the Department of Foreign Affairs ;

Who, after having communicated to each other their respective full powers, found in due form, have agreed upon the following Articles :—

ARTICLE I.

The French Government shall be at liberty to recruit and engage labourers for the French Colonies in the Indian Territories belonging to Great Britain, and embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall entrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.
Those Agents must be approved by the British Government.
Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of labourers for British Colonies.

ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the Recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.
In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.
Under the term "Consular Agents" are comprised Consulas, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself, either that the Emigrant is not a British subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by section 4 of Article IX., and by section 2 of Article X., shall be made in India, and shall either bind the Emigrant to serve a person designated by name or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for :—
1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.
2. The number of days and hours of work.
3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.
4. Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government officer, his illness shall have arisen from his own misconduct.
In every contract of engagement there shall be inserted an exact copy of Articles IX., X., XX., and XXI. of the present Convention.

ARTICLE IX.

1. The duration of the Immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.
2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

The Immigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the labourer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects to Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the depôts, or other place in which they may be lodged, in order to communicate with the British Agents, who, on their part, may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the first of August to the fifteenth of March. This arrangement applies only to sailing vessels; vessels using steam-power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the first of March and the fifteenth of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks, cabins on the upper deck or in firmly secured and entirely covered in, a space devoted their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be

raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulation as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all labourers disembarked who are subjects of Her Britannic Majesty.
2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Immigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the labourer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of labourers no husband shall be separated from his wife, nor any father of mother from their children under fifteen years of age. No labourer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labour-regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

The present Convention shall begin to take effect on the first of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

Nevertheless the Governor-General of British India in Council shall, in conformity with the Act of the 19th of September, 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the emigrants immediately upon their arrival or during their residency therein, or for their safe return to India, or to provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage.

In case, however, the power thus reserved to the Governor-General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favour of the said Indian subjects, until they shall either have been sent back to their own country, or have renounced their right to a return-passage to India.

ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st day of July, in the year of our Lord one thousand eight hundred and sixty-one.

(L. S.) COWLEY.
(L. S.) THOUVENEL.

ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Réunion, that Colony has, since last year, had to obtain labourers from India and China; and Her Britannic Majesty having, by a Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Réunion to recruit six thousand labourers in her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith, with regard to the said Colony of Réunion.

The present Additional Article shall have the same force and validity as if it were inserted, word for word, in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st of July 1861.

(L. S.) COWLEY.
(L. S.) THOUVENEL.

ACT No. IX. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 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 ;
 Preamble. 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 hundi ;

" 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.

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;

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.

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.

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.

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.

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.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

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,

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.	Act No. XI. of 1841.	Military Courts of Requests.	The proviso in section nine.
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. 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.
9 Geo. IV., cap. seventy-four.	Administration of Criminal Justice.	So much of section fifty-one as relates to civil suits.	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."
6 & 7 Vic., cap. ninety-four.	Foreign Jurisdiction Act.	Section seven, so far as it applies to British India.			In section two hundred and thirty, the words

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. XII. 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 :—	Do. ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
			(a.) sale in execution of a decree of a Civil Court ;		

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.	Two years ...	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.	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.
			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 fixed time expires.	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>muwajjal</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.	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.
96.—To set aside a decree obtained by fraud.	Do.	Do.	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

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...	set aside on appeal, the date of the decree of the appellate court.	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.	When the arrears become due.	120.—To avoid incumbrances or under-tenures in a <i>patni 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.	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.	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 call was made.	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 plaintiff has notice that his right is denied.	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.			
	Part VII.— Six years.				
116.—Upon a judgment obtained in a foreign country.	Six years	The date of the judgment.			
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.	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.
118.—Suit for which no period of limitation is provided elsewhere in this schedule.	Do.	When the right to sue accrues.	125.—By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	Do.	The date of the alienation.
	Part VIII.— Twelve years.		126.—Like suit by a Hindú governed by the law of the Dáyabhága.	Do.	When the father dies.
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.	127.—By a Hindú excluded from joint-	Do.	When the plaintiff claims and is refused his share.

Explanation.—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.

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. 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.	Twelve years.	titled to possession. When the vendor is first entitled to possession.
129.—To establish or set aside an adoption.	Do.	... The date of the adoption, or (at the option of the plaintiff) the date of the death of the adoptive father.	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.
130.—For the resumption or assessment of rent-free land.	Do.	... 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.	... The date of the sale.
131.—To establish a periodically recurring right.	Do.	... When the plaintiff is first refused the enjoyment of the right.	139.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Do.	... The date of the dispossession.
132.—For money charged upon immoveable property. <i>Explanation.</i> —The allowance and fees called <i>malikana</i> and <i>haqq</i> s shall, for the purposes of this clause, be deemed to be money charged upon immoveable property.	Do.	... When the money sued for becomes due.	140.—By a landlord to recover possession from a tenant.	Do.	... When the tenancy is determined.
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.	... The date of the purchase.	141.—By a remainderman, a reversioner, (other than a landlord) or a devisee, for possession of immoveable property.	Do.	... When his estate falls into possession.
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.	... The date of the purchase.	142.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú widow.	Do.	... When the widow dies.
135.—Suit instituted in a Court not estab-	Do.	... When the mortgagee is first en-	143.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Do.	... The date of the dispossession or discontinuance.
			144.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Do.	... When the forfeiture was incurred or the condition broken.
			145.—For possession of immoveable pro-	Do.	... When the possession of the de-

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. 146.—For a declaration of right to an easement.	Twelve years.	fendant, or of some person through whom he claims, became adverse to the plaintiff. When the easement ceased to be enjoyed by the plaintiff, or the persons on whose behalf he sues.	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.		
147.—Against a depositary or pawnee to recover movable property deposited or pawned.	Part IX.—Thirty years.	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnee, 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 immoveable property mortgaged.	Sixty years...	When any part of the principal or interest was last paid on account of the mortgage debt.
148.—Against a mortgagee to recover possession of immoveable property mortgaged.	Part X.—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.	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.	Description of appeals.	Period of limitation.	Time when period begins to run.
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.	Description of application.	Period of limitation.	Time when period begins to run.
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 irregu- larity 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.
161.—For re-admis- sion of an appeal dismissed for want of prosecution.	Do. ...	The date of the dismissal.			
162.—For leave to ap- peal as a pauper.	Ninety days...	The date of the decree appealed against.			
163.—To a High Court for the admission of special appeal.	Do. ...	Do.	168.—For the execu- tion of any such de- cree or order of which a certified copy has been regis- tered under the In- dian Registration Act.	Six 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 Appellate Court, or (where there has been a review of judgment) the date of the deci- sion passed on the review.
164.—For a review of judgment.	Do. ...	The date of the decree.			
165.—Under the Code of Civil Procedure, section three hun- dred and twenty- seven, that an award be filed in Court.	Six months ...	The date of the award.			When a present right to enforce the judgment, de- cree or order accrued to some
166.—For the execu- tion of a decision (other than a de- cree or order passed in a regular suit or an appeal) of a Civil Court or of a Re- venue Court.	One year ...	The date of the decision, or of taking some pro- ceeding to enforce or keep in force the decision.	169.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exer-	Twelve years.	

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 N^O. X. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1871.)

THE EXCISE ACT, 1871.

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42. Power of Excise officers to inspect shops.
43. And to arrest persons carrying spirits, &c., liable to confiscation.
44. And to arrest unlicensed distillers, &c.
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45. And to search on information of illicit manufacture or possession.
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Proviso.

64. Exceptions

SECTION.

64. Exceptions as to tári, gunja, and bhang.
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65. For having in possession a greater quantity of opium than five tolas weight.
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71. For vexatious search or seizure.
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Indemnity-clause.
- SCHEDULE—(Acts repealed.)

AN

AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO THE EXCISE REVENUE IN NORTHERN INDIA, BRITISH BURMAH, AND COORG.

WHEREAS it is expedient to consolidate and amend the laws in force in Northern India, British Burmah, and Coorg relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom: It is hereby enacted as follows:—

I.—PRELIMINARY.

- Short title. 1. This Act may be called “The Excise Act, 1871.”
- Local extent. It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burmah, and Coorg.
- Commencement of Act. It shall come into force in the North-Western Provinces, the Punjáb, Oudh, and the Central Provinces on the passing thereof, and in British Burmah and Coorg on the first day of April 1872.
- Repeal of Acts. 2. The Acts mentioned in the schedule hereto annexed are repealed.
- Interpretation-clause. 3. In this Act,
“Chief Revenue Authority” means—
in the territories subject to the Lieutenant-Governor of the North-Western Provinces, the Board of Revenue,
in the Punjáb and Oudh, the Financial Commissioner, and
in the Central Provinces, British Burmah, and Coorg, the Chief Commissioner.
“Collector” includes any Revenue Officer in independent charge of a district and a Superintendent of Abkárí Revenue.
“Magistrate” means any Magistrate exercising powers not less than those of a Subordinate Magistrate of the first class.
“Country-spirit.” “Country-spirit” means any spirit made by the Native process of distillation.
“Intoxicating drugs” includes ganja, bhang, charas, opium, and every preparation and admixture of the same.
“Intoxicating drugs.”
4. Nothing herein contained affects Act No. XVI. of 1863 (*to make special provision for the levy of the excise duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry*).

Saving of Act No. XVI. of 1863.

II.—MANUFACTURE

II.—MANUFACTURE OF SPIRITS AND FERMENTED LIQUOR.

5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the district in which such distillery is situated.

English distilleries not to be constructed or worked without license.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

6. The Chief Revenue Authority may from time to time make rules relative to—

- (a) the granting of licenses under section five;
- (b) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;
- (c) the size and description of the stills;
- (d) the passing and storing of the spirits;
- (e) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;
- (f) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery.

Collectors may establish distilleries for country-spirits.

7. The Collector, with the sanction of the Chief Revenue Authority, may—

- (a) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process;
- (b) from time to time fix limits within which no country-spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery; and
- (c) discontinue any distillery so established.

Chief Revenue Authority may prescribe rules for distilleries.

8. The Chief Revenue Authority may from time to time make rules relative to—

- (a) the management of distilleries established under section seven,
- (b) the conditions on which spirits may be manufactured in the said distilleries, and
- (c) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Breweries not to be constructed or worked without license.

9. No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

10. Except

Sanction of Local Government to rules under sections 6, 8, and 9.

10. Except in the Central Provinces, British Burmah, and Coorg, the sanction of the Local Government is required to validate rules under sections six, eight, and nine.

Prohibition of unlicensed manufacture of country-spirits.

11. No person shall manufacture spirits after the native process except under license from the Collector.

III.—SALE OF SPIRITS, FERMENTED LIQUOR, AND INTOXICATING DRUGS.

12. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

English spirits and fermented liquor not to be sold without license.

13. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, such sum as the Chief Revenue Authority from time to time prescribes.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue Authority from time to time prescribes, a general license, authorizing them to sell by wholesale in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

14. Persons taking out licenses for the retail sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee or tax as the Chief Revenue Authority fixes, and such fee or tax shall be payable at such periods as the said Authority directs.

Fee for retail license.

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail sale.

What to be held a retail sale.

Country-spirits and drugs not to be sold without license.

15. No person shall sell spirits manufactured by the native process, or t^ár^í, or pachw^áf, or any intoxicating drug, except under license from the Collector.

16. All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of t^ár^í, whether in a fermented state or otherwise; and all t^ár^í, both fresh and fermented, is included in the expression "fermented liquors" as used in the following sections.

T^ár^í to be deemed a fermented liquor.

17. Provided that the Local Government may suspend the operation of all the provisions relating to t^ár^í, contained in this Act, with respect to any district in which the consumption of t^ár^í in a

Proviso.

fermented

fermented state is inconsiderable; and thereupon t    may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

18. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Chief Revenue Authority from time to time directs: and no other description of opium shall be sold by such vendors.

The Local Government may, from time to time, by order, exempt any district from the operation of this section.

19. Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country-spirits, t   , and pachw   , and intoxicating drugs shall not be sold in larger quantities than are hereunder specified—

country-spirits, one ser;

t    or pachw   , four sers;

ganja or bhang, or any preparation or admixture thereof, one quarter of a ser; charas or opium, or any preparation or admixture thereof, five tolas weight;

And the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Act.

20. No cultivator of the plants producing ganja or bhang shall sell any ganja or bhang to any one other than (a) a person licensed under section fifteen to sell the same, or (b) a person duly authorized to purchase the same by pass or license from the Collector.

IV.—DUTIES.

21. A duty shall be levied on spirits manufactured at distilleries worked according to the English method at the rate of three rupees the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit.

No spirit shall be removed from any such distillery, or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided.

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

(a) the quantity and strength of the spirit,

(b) the place of its destination,

(c) the person to whom it is consigned, and

(d) whether the duty has been paid or, secured by bond.

Nothing

Nothing in the former part of this section applies to British Burmah.

22. Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in section twenty-one:

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

23. A duty shall be levied on spirits manufactured in distilleries established under section seven at such rate as the Chief Revenue Authority, with the sanction of the Local Government, may from time to time prescribe.

24. Whenever a license for the retail sale of country spirits, t   , or pachw   , or intoxicating drugs, is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue Authority.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented t    only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

V.—FARM OF DUTIES.

25. The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs, in any district or division of a district.

26. The Chief Revenue Authority may prescribe rule—

(a) for the invitation and acceptance of tenders for such farms,

(b) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(c) as

(c) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

27. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm ;

Farmer to make arrangements with local manufacturers and vendors.

and all the fines and forfeitures hereinafter prescribed for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

28. Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

List of licenses granted by farmer to be filed.

The Collector, with the sanction of the said Chief Revenue Authority, may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Restrictions as to grant of licenses.

29. The Collector may, with the sanction of the Chief Revenue Authority, cancel any lease granted under this Act; or may, within the period of the lease, impose any new restriction on the farmer.

Lease may be cancelled.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

Compensation to farmers in certain cases.

30. Every farmer of Excise revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor as may be lawfully used by zamindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

Recovery of arrears of tax or duty by farmers.

VI.—LICENSES.

31. Every person taking out a license for the manufacture of country spirits, or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement, or make such deposit in lieu of security, as the Collector may require.

Certain licenses to execute counterpart and furnish security.

32. Unless

32. Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year.

Duration and renewal of license.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into by every such person, shall remain in force as if the said license and engagement had been formally renewed.

Chief Revenue Authority to regulate form of license.

33. The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act.

34. The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

Power to recall license.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

35. Any licensed retail vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license fees for six mouths as the Collector may adjudge.

Surrender of license.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

VII.—POWERS OF OFFICERS.

36. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority.

Collectors of Land Revenue to have charge of the Excise revenue.

But the Local Government may appoint any other person to be Superintendent of Excise revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority, conferred by this Act on the Collector of Land Revenue ; and the Collector of Land Revenue shall

cease

cease to exercise such powers and authority in such district or place during the continuance of such appointment.

37. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the Excise revenue in any district or districts ; and when such appointment is made the Commissioner of Excise shall exercise within such district or districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

38. Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers, and other officers, for the collection of the Excise revenue and for the prevention of smuggling, and the officer so appointed shall, in addition to their ordinary designations, be styled Excise Officers.

39. In districts where there are tahsildárs and other local officers for the collection of the land revenue, the office of Excise dárogha ^{Tahsildars may be Abkari} may be united with that of tahsildár, or any of such local ^{daroghahs.} officers, and the said officers, together with the officers subordinate to them, shall be deemed to be Excise Officers within the meaning of this Act.

40. The Chief Revenue Authority may regulate the mode in which tārī shall be supplied to licensed vendors of the same ; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganja, bhang, or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation, and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

41. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act, or any arrear due from any farmer of Excise revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

42. Any Excise Officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

43. Any

And to arrest persons carrying spirits, &c., liable to confiscation.

43. Any Excise officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act ;

and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them ; and may also arrest the person in whose possession such liquors or drugs are found.

44. Any Excise officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

And to seize stills. and may seize such still with the materials for working it, and all such liquors and drugs.

And to search on information of illicit manufacture or possession.

45. Whenever any Excise officer above the rank of a jamadár of peons, has reason to believe, from information given by any person, which information shall be taken down in writing,

that spirits are unlawfully manufactured,
or that any spirituous or fermented liquors, or intoxicating drugs liable to
confiscation under this Act, are kept or concealed in any house, boat, or other
place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadár), enter into any such house, boat, or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry ;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

46. The powers of seizure, search, and arrest, given to Excise officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs, and Revenue Departments according to their respective grades.

And

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be deemed to be Excise officers within the meaning of this Act.

47. Whenever an Excise officer arrests any person,

Abkari officer to report arrests, &c. or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat, or place for the purpose of searching for any such illicit articles,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

48. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

49. The Collector may issue his warrant for the search of any house, boat, or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Such warrant may be executed by any officer above the rank of a jamadár of peons, at the time and in the manner prescribed in section forty-five.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any officer above the rank of a jamadár of peons, in the manner prescribed in section forty-five, and shall cease to be in force at sunrise on the day next following.

50. Whenever

50. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

51. All Police officers are required to aid the Excise officers in the due execution of this Act, upon notice given or request made by such officers.

VIII.—PENALTIES.

52. Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees ;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

53. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section six, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees ;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

54. Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees ;

and the liquors, together with the vessels containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

55. Whoever

55. Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees; and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

56. Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.

57. Every person licensed to manufacture country spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any Excise officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.

58. Every licensed retail vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail sale, shall for every such offence be punished with fine not exceeding two hundred rupees.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

59. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

60. Whoever conveys or attempts to convey any country spirits from a distillery established under section seven without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall

shall for every such offence be punished with fine not exceeding five hundred rupees.

61. Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees.

62. Every person other than a licensed manufacturer who manufactures any country spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Nothing in this section or in section twelve applies to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

63. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country spirits, or tári, or pachwái, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of section nineteen,

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Provided, that nothing in this section extends to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

64. The

64. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tārī, the produce of the date tree, when supplied or used for the manufacture of gūr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale and possession of ganja or bhang by the cultivators of the plants which produce those drugs respectively.

Every such cultivator selling ganja or bhang in breach of the prohibition contained in section twenty, shall for every such offence be punished with fine not exceeding five hundred rupees.

65. Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight, shall for every such offence be punished with fine not exceeding five hundred rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser for all the opium so found in excess of that weight;

and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Exception in favour of—
66. Nothing in section sixty-five applies to the persons and circumstances hereinafter specified, namely:—

(a.) Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy and the delivery of the produce to the opium agent.

(b.) Travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, or, in British Burmah, five tolas, the produce of such foreign States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter.

(c.) Dealers in horses travelling with strings of horses from beyond the limits of British India, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

If opium be found in the possession of any such traveller, visitant, or dealer in horses in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.

67. Every

67. Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,
For sale of adulterated opium, &c., by licensed vendors.

or, who, except in districts exempted from the operation of section eighteen sells or has in his possession any opium other than the opium supplied to him from the Government stores,

shall for every such offence be punished with fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

68. Every proprietor, farmer, tahsildar, gumashta, or other manager of land, who authorizes or connives at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.
For conniving at illicit manufacture or sale of spirits, &c.

69. Any Police officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any darogha or other officer in charge of a Police station, who, on application made by an Excise officer under section forty-five, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadar, shall for every such offence be punished with fine not exceeding five hundred rupees.
On police neglecting to assist.

70. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested, or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.
For maliciously giving false information.

Such fine or any part thereof may be paid to the person aggrieved.

71. Any Excise officer who without reasonable ground of suspicion,
For vexatious search or seizure.

searches or causes to be searched any house, boat, or other place, or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act, or vexatiously and unnecessarily arrests any person,

or

or commits any other excess not required for the execution of his duty, 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.

72. Any Excise officer who neglects to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall for every such offence be punished with fine not exceeding two hundred rupees.

On Excise officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate or Collector.

73. Any Excise officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of his license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Excise Revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

74. All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Excise officer;

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two, or seventy-three.

75. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Excise officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before

Procedure in cases other than those of persons sent in custody by a Collector or Excise officer.

Adjudication of penalties and seizures.

before a Magistrate, and for appeal against orders passed by a Magistrate, shall apply to trials under this Act.

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

76. Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

77. Every person imprisoned for an offence under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two, or seventy-three, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

78. All things confiscated under this Act, except opium, shall be disposed of by the Collector by public sale.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

79. One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each ser, shall be given to the informer.

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of Excise officers shall receive rewards, and what classes shall have no title to share therein.

Rewards where no fine is realized.

Disposal of fines, &c., as rewards.

Confinement in civil jail.

Disposal of confiscated goods.

Punishment on second or subsequent conviction.

Fines undisposed of to belong to Government.

80. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government.

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Special rewards to informers.

IX.—MILITARY CANTONMENTS.

Rules respecting the manufacture and sale of spirits, &c., in Military Cantonments.

81. Within the limits of any Military Cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the Commanding Officer:

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately withdrawn.

Mode of making arrest or search within Military Cantonments.

82. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible.

Provided also that nothing herein contained shall affect the provisions of Act No. XXII. of 1864 (to make provision for the administration of Military Cantonments).

X.—MISCELLANEOUS.

Drawback on exportation.

83. A drawback of the duty levied under Part IV. of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

The

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

No drawback on spirits exported to British Indian ports except Aden or shipped as stores.

84. No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

Recovery of sums due under bond.

85. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Appeals from orders and sentences passed under this Act.

86. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

Powers vested in officers of the Opium Department.

87. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium;

and the officers of the Opium Department shall exercise the powers conferred by this Act on Excise officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and in respect to such seizures and arrests, shall be deemed to be Excise officers within the meaning of this Act.

Legation of levy of Excise duties in Oadh.

88. All duties heretofore levied in Oudh on spirituous and fermented liquors or intoxicating drugs, shall be deemed to have been levied in accordance with law.

Indemnity-clause:

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.

SCHEDULE.

SCHEDULE.

Number and year.	Title of Act.
XXI. of 1856	... An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.
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).
X. of 1864	... 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).
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.
XXIII. of 1868	... An Act to give validity to certain Abkari Rules in British Burmah.

772 7 7/10000

ACT N^o. XI. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1871.)

An Act to abolish the Financial Commissionership of Oudh.

WHEREAS it is expedient to abolish the office of Financial Commissioner of Oudh; It is hereby enacted as follows:—

Abolition of Financial Commissionership.

1. The said office is hereby abolished.

Power to invest certain officers with jurisdiction of Financial Commissioner.

2. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, invest the Chief Commissioner of Oudh, the Judicial Commissioner of Oudh or any Commissioner in that Province, with all or any of the powers which, if this Act had not been passed, the said Financial Commissioner might have exercised under any law, rule or order having the force of law.

Transfer of pending appeals.

3. All appeals now pending in the Court of the said Financial Commissioner shall be transferred to such Courts as the Governor-General in Council may, by such notification as aforesaid, direct in this behalf.

Disposal of such appeals.

4. All such appeals shall be disposed of as if they had been originally presented in the court to which they are so transferred, and the orders of such Court shall have the same effect as if they had been made by the said Financial Commissioner, and as if this Act had not been passed.

4. Act

4. Act No. XXXVII. of 1867 (*for transferring appeals from the Court of the*
Financial, to the Court of the Judicial, Commissioner of Oudh,
and for other purposes) is hereby repealed.

5. Act No. XIX. of 1868 (*to consolidate and amend the law relating to rent in*
Oudh), sections 84, 93, 94 and 98, shall be construed as if, for
 "Financial Commissioner," the words "Judicial Commis-
 sioner" were substituted.

ACT No. XII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st March 1871.)

THE INDIAN INCOME TAX ACT.

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SCHEDULE Form of petition under section 31.

AN ACT FOR IMPOSING DUTIES ON INCOME.

Preamble.

For the purpose of imposing duties on income arising from offices, 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;

Commencement of Act.

It shall come into force on the first day of April 1871, and it shall cease to be in force on the thirty-first day of March 1872, except as to taxes then due and penalties incurred thereunder.

Repeal of Act XVI. of 1870.

2. On and from the said first day of April 1871, Act No. XVI. of 1870 shall be repealed:

Provided that such Act shall continue in force until the first day of April 1872 as to taxes and penalties due and incurred thereunder.

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—

"Income."

"Income" means income and profits accruing and arising in British India:

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a

"Magistrate." 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

"Company."

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

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 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 the decision on such appeal is in favour of the petitioner, the value of 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.

34. 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, 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.

Power to issue fresh notice.

35. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income not specified in the receipt granted to him under section twenty-nine 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-eight to thirty-four (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART VII.

PART VII.

PAYMENT AND RECOVERY OF DUTIES.

36. All duties under this Act, except when they are deducted under section eight, section nine, or section sixteen shall be payable on the first day of April 1871:

Tax when payable.

Provided that the amount so payable may be paid by two equal instalments: the first instalment to be paid on some day not later than

Payment by instalments. fifteen days after service of the notice mentioned in section twenty-eight upon the person paying the same, and the second instalment on the first day of October next.

37. In any case of default under this Act, the Collector may, if a notice has 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 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 monies 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-one, 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

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.

38. If during or within two months from the end of the year for which any 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 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.

39. Every Treasurer, Secretary, Agent, Manager, or other person failing to make any payment or deduction, or to prepare and deliver in due time any statement or return, or to produce any accounts required by sections nine, ten, eleven, twelve, or thirteen,

Treasurers, &c., failing to make payments or deliver returns.

Trustees, &c., failing to deliver statements or declarations.

and every trustee, guardian, curator, committee, or agent failing to deliver any statement or declaration required by section nineteen,

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.

40. Whoever

40. Whoever makes a statement in any declaration or list made or delivered under section twenty-four or 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 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-one 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.

41. No person shall be proceeded against for any offence under section thirty-nine or section forty except at the instance of the Collector.

42. 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.

PART IX.

MISCELLANEOUS.

43. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

44. 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.

45. 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 or a Hindu 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.

46. When any Company or firm has several places of business in the territories subject to different Local Governments, the Governor-General in Council shall have power to declare which

of

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 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 in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

47. 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 31.

Stamp
eight annas.

TO THE COLLECTOR OF

The day of 187 .
The petition of A B of

SHAWETH,

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 187 .

ACT No. XII. OF 1871.

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
is presented herewith. , as will appear from the documents of which a list

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 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*

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. XIII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st March 1871.)

An Act to consolidate and amend the law relating to Customs Duties.

WHEREAS it is expedient to consolidate and amend the law relating to the duties of Customs on goods imported and exported by sea ;
It is hereby enacted as follows :—

Short title. 1. This Act may be called "The Indian Tariff Act, 1871."

Local extent. It extends to the whole of British India except Aden ;

Commencement. And it shall come into force on the passing thereof.

2. There shall be levied and collected, in every port to which this Act applies, the duties specified in Schedules A and B hereto annexed.

3. Goods not prohibited to be imported into or used in British India, composed of any article liable to duty as a part or ingredient thereof, shall be chargeable with the full duty payable on such article, or if composed of more than one article liable to duty, then with the full duty payable on the article charged with the highest rate of duty.

4. Nothing

4. Nothing herein contained affects Act No. XX. of 1867, or authorizes—

Saving clause.

- (1) the levy of import duties on articles (other than salt, opium and spirits) imported into one port in British India from another:
- (2) the levy of export duties on articles exported from one port in British India to another:
- (3) the levy of export duties on articles exported by sea to any place other than a foreign port in India, when such articles have been imported by sea into British India.

And, notwithstanding anything herein contained, no opium shall be exported from British India, unless it be covered by a pass granted by an officer appointed in this behalf by the Local Government.

5. Section twenty-seven of the Consolidated Customs 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 Tariff Act, 1871;" but, save as aforesaid, nothing herein contained shall be construed to affect the provisions of the Consolidated Customs Act.

6. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, fix for the purposes of this Act the value of any goods exported or imported by sea on which duties of customs are hereby imposed.

7. Nothing in Schedule B hereto annexed applies to pepper exported by sea from the port of Cochin. But on all such pepper there shall be levied such duty, not exceeding nine rupees per khandi, as the Governor of Fort Saint George in Council from time to time determines; and at the close of each year, or as soon after as may be convenient, the Collector of Customs at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Government of Travancore and Cochin, in such proportions and in such manner as the said Governor in Council from time to time directs.

8. Duties of customs shall be levied on goods passing by land into or out of Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George or the Presidency of Bombay at the rates prescribed in the Schedules A and B hereto annexed.

9. The

9. The enactments mentioned in Schedule C hereto annexed are repealed to the extent specified in the third column of the same Schedule.

SCHEDULE A.

IMPORT TARIFF.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		RS. A.	
1	APPAREL, INCLUDING HABERDASHERY, MILLINERY, &c.	<i>Ad valorem.</i>	
2	ARMS, AMMUNITION, AND MILITARY STORES—		
	Gunpowder, common ...	0 5 per lb.	
	" sporting ...	1 0 "	
	Fire-arms and parts thereof ...	<i>Ad valorem.</i>	
	All other sorts, including Military Accoutrements, Uniforms, &c., but excluding Military and other Regulation Accoutrements and Uniforms imported for private use by persons in the public service ...	<i>Ad valorem.</i>	
3	ASPHALT ...	20 0 per ton.	
4	BEADS AND FALSE PEARLS—		
	Beads, China ...	30 0 per cwt.	
	" Common ...	28 0 "	
	" Ruby, of all sizes ...	0 12 per lb.	
	" Seed ...	0 10 "	
	" Small, Scarlet, and Red ...	0 10 "	
	" Coral (false) Moorzun ...	0 8 per corgo of 2,000 beads.	Seven and a half per cent.
	All other sorts of false Corals and Beads ...	<i>Ad valorem.</i>	
	Pearls, false, Bajerla ...	5 0 per lakh.	
	" Boria ...	1 0 per thousand.	
	" Jouria ...	8 0 per lakh.	
	" Nathia ...	0 6 per thousand.	
	" Tachea ...	0 12 "	
	" Wattanah ...	10 0 per lakh.	
	All other sorts ...	<i>Ad valorem.</i>	
5	CABINET-WARE ...	<i>Ad valorem.</i>	
6	CANDLES, WAX, COMPOSITION AND OTHER KINDS—		
	Candles, Wax ...	1 0 per lb.	
	" Paraffine ...	0 8 "	
	" Spermaceti ...	0 8 "	
	" Composition and other sorts ...	0 5 "	
7	CARRIAGES ...	<i>Ad valorem.</i>	
8	CLOCKS, WATCHES, AND OTHER TIME-KEEPERS ...	<i>Ad valorem.</i>	

SCHEDULE A.

IMPORT TARIFF—(continued.)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
9	COFFEE— Persian Gulf and Red Sea ...	RS. A. 30 0 per cwt.	Seven and a half per cent.
	Other places ...	20 0 "	
	CORALS REAL ...	Ad valorem.	
11	CORKS ...	1 8 per gross.	
12	COTTON— Thread— Sewing Thread, White and Coloured " In reels, or on cards of one hundred yards (and <i>pro rata</i> above and below)*	0 11 per lb. 2 4 per gross reel.	Seven and a half per cent.
	" Goa and Country...	30 0 per cwt.	
	Twist— Mule, under No. 15 ...	0 6 per lb.	
	Nos. 16 to 24 ...	0 9 "	
	25 to 32 ...	0 10 "	
	33 to 42 ...	0 11 "	
	43 to 52 ...	0 12 "	
	53 to 60 ...	0 14 "	
	No. 70 ...	0 15 "	
	80 ...	1 0 "	
	90 ...	1 1 "	Three and a half per cent.
	100 ...	1 2 "	
	110 ...	1 3 "	
	120 ...	1 4 "	
	and one anna additional for every count of ten above No. 120.		
	Water, No. 20 ...	0 10 "	
	30 ...	0 11 "	
	40 ...	0 13 "	
	50 ...	0 15 "	
	Above 50 ...	1 2 "	
	Turkey Red Twist, all kinds* ...	1 6 per lb.	Three and a half per cent. * Duty to be charged on the Grey weight of the Coloured Yarn; when not ascertainable, the actual Wharf weight; or Invoice weight to be taken.
	Twist, Orange, Red and other Colours* ...	0 15 "	
	Piece Goods— Grey— Mulls ...	1 1 per lb.	Five per cent.
	Jaconets exceeding 10 X 10 to the quarter inch ...	0 13 "	
	Other Jaconets ...	0 11 "	
	Shirtings, Madapollams and Prints ...	0 11 "	
	Long Cloths, Jeans, Domestics, Sheetings, Drills and T. Cloth.	0 9 "	
	Other sorts ...	Ad valorem.	

* Exceeding this length to be charged in proportion.

SCHEDULE A.

IMPORT TARIFF—(continued.)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		RS. A.	
	Cotton Rope ...	25 0 per cwt.	Seven and a half per cent.
	Cotton Goods, other kinds ...	Ad valorem.	
13	DRUGS AND MEDICINES— Acid, Sulphuric ...	0 3 per lb.	Seven and a half per cent.
	Alkali, Country (Sajee Khar) ...	2 0 per cwt.	
	Aloes, black ...	10 0 "	
	" Socotra ...	25 0 "	
	Allum ...	3 8 "	
	Arsenic ...	25 0 "	
	" China, Munseel ...	8 0 "	
	Assafœtida (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 ...	Ad valorem.	
	Sal Ammoniac ...	22 0 per cwt.	
	Salep ...	60 0 "	
	Senna Leaves ...	6 0 "	
	All other sorts ...	Ad valorem.	
14	DYEING AND COLOURING MATERIALS— Cochineal ...	1 12 per lb.	Seven and a half per cent.
	Gallnuts, Country, Myrabolan ...	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 "	
	Sapan Wood and Root ...	3 8 per cwt.	
	Aniline Dyes ...	0 8 per oz.	
	All other sorts ...	Ad valorem.	
15	FIREWORKS— China ...	30 0 per box of 133½ lbs.	
	Other sorts ...	Ad valorem.	

SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		RS. A.	
16	FLAX, MANUFACTURES OF— Piece Goods ...	<i>Ad valorem.</i>	Five per cent.
	Other sorts, including linen thread.	<i>Ad valorem.</i>	
17	FRUITS AND VEGETABLES— Almonds, without shell ...	25 0 per cwt.	Seven and a half per cent.
	" with shell ...	10 0 "	
	Cajoo kernels ...	10 0 "	
	Cocoanuts... ..	30 0 per thousand.	
	" kernel (Copra) ...	9 8 per cwt.	
	Currants, Europe ...	35 0 "	
	" Persian ...	12 0 "	
	Dates, dry, in bags ...	4 0 "	
	" wet, " ...	3 0 "	
	" " in pots ...	6 0 "	
	Figs, Europe ...	42 0 "	
	" Persian, dried ...	6 0 "	
	Garlic ...	4 0 "	
	Pistachio Nuts ...	14 0 "	
	Prunes, Bussorah ...	12 0 "	
	Raisins, Black, Persian Gulf, Red Sea, and Khismis ...	12 0 "	
	" Monocka, Persian Gulf and Red Sea ...	7 0 "	
	" Malaga and Bloom; ...	0 10 per lb.	
	" Other sorts ...	<i>Ad valorem.</i>	
	Walnuts, Akroet ...	5 0 per cwt.	
	Mangoes, dried ...	<i>Ad valorem.</i>	
	Prunes, Europe ...	<i>Ad valorem.</i>	
	Other sorts, except Bidmiskh and Buzarbuttoo Nuts which are free.	<i>Ad valorem.</i>	
18	GLASS AND GLASS-WARE— Bangles, Glass, China, Gilt ...	10 0 per 100 pairs.	
	" " not Gilt ...	5 0 "	
	Glass, Broken ...	5 0 per cwt.	
	" China, of all colours ...	32 0 per 133½ lb.	
	" Crown, coloured ...	32 0 per 100 supl. feet.	
	" " of sizes... ..	5 0 per 100 supl. feet.	
	Glass and Glass-ware of all other sorts, except Bottles which are free ...	<i>Ad valorem.</i>	
19	GUMS— Gum, Ammoniac ...	10 0 per cwt.	
	" Arabic ...	16 0 "	
	" Bdellium, common Gum ...	5 0 "	

SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		RS. A.	
	GUMS—continued.		
	Gum, Benjamin ...	33 0 per cwt.	
	" Bysabole, coarse Myrrh ...	12 0 "	
	" Copal ...	65 0 "	
	" Frankincense or Olebanum ...	9 0 "	
	" Gambier (or Kino) ...	8 0 "	
	" Myrrh ...	24 0 "	
	" Persian (false) ...	3 0 "	
	" Rosin ...	12 0 "	
	All other sorts ...	Ad valorem.	
20	GROCERIES NOT OTHERWISE DESCRIBED ...	Ad valorem.	
21	HIDES AND SKINS—		
	Border Hides, prepared ...	30 0 each.	
	Buffalo Hides, Country, Tanned ...	80 0 per score.	
	Calf Skins ...	40 0 per dozen.	
	Chamois Skins ...	6 0 "	
	Cow Hides, Country, Tanned ...	60 0 per score.	
	Rhinoceros Leather ...	40 0 per cwt.	
	Other sorts ...	Ad valorem.	
22	INSTRUMENTS, MUSICAL ...	Ad valorem.	
23	IVORY AND IVORY-WARE—		} Seven and a half per cent.
	Elephant's Grinders ...	16 0 per cwt.	
	Tusks above twenty lbs. ...	300 0 "	
	Tusks ten lbs. and not exceeding twenty lbs. ...	225 0 "	
	Tusks under ten lbs. ...	125 0 "	
	Sea Cow or Moyo Teeth, three lbs. and upwards ...	225 0 "	
	Sea Cow or Moyo Teeth, under three lbs. ...	75 0 "	
	Ivory, Manufactures of ...	Ad valorem.	
24	JEWELLERY, INCLUDING PLATE—		
	Silver-ware, plain ...	1 6 per tolah.	
	" embossed ...	2 0 "	
	Jewellery and Plate of all other kinds, excepting Precious Stones and Pearls, which are free ...	Ad valorem.	
25	LEATHER AND MANUFACTURES OF—		
	Leather ...	} Ad valorem.	
	Boots and Shoes ...		
	Harness and Saddlery ...		
	Other sorts ...		

SCHEDULE A.

IMPORT TARIFF—*continued.*

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
26	LIQUOR— Ale, Beer, and Porter ... } Cider and other fermented Liquors } Spirits ... } Wines— Champagnes, Sparkling Wines, and Liqueurs ... } All other sorts ... }	RS. A. 	{ One anna per Imperial Gal- lon. Three Rupees the Imperial Gallon, and the duty to be rateably in- creased as the strength exceeds London Proof. Provided that ten per cent. <i>Ad valorem</i> shall be charged on all spirits used exclusively in Arts and Manufactures, or in Che- mistry, subject to such Rules as the Local Governments shall from time to time prescribe, for ascer- taining that such spirits are unfit for use as a beverage and incapa- ble of being converted to that purpose. And the officer in charge of the Custom House, sub- ject 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. RS. A. 1 8 per Imperial Gallon or six Quart Bot- tles. 1 0 per do.
27	MATCHES— Lucifer and all other sorts ...	<i>Ad valorem.</i>	
28	MATS, FLOOR MATTING, CHINA, OF ALL SORTS ...	50 0 per hundred.	
29	METALS, UNWROUGHT, WROUGHT, AND MANUFACTURES OF— Brass Beads, Googree, China ... " Old ... " Sheets, rolls very thin ... Copper, Australian Cake ... " Bolt ... " Brazier's ... " China Cash ... " Japan ... " Nails and Composition ... " Nails ... " Old ... " Pigs and Slabs, Foreign ... " Sheet, Sheathing and Plate ... " Tiles, Ingots, Cakes, and Bricks ...	0 12 per thousand. 35 0 per cwt. 80 0 " 41 0 " 43 0 " 43 0 " 28 0 " 41 0 " 43 0 " 40 0 " 38 0 " 43 0 " 40 0 " 40 0 "	Seven and a half per cent.

SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty
METALS, &c.— <i>continued.</i>		RS. A.	
Copper,	China, White Copper-ware	1 4 per lb.	} Seven and a half per cent.
"	Foil Dank-pana, China ...	3 0 per book of 100 leaves.	
"	Europe ...	4 0 "	
"	All other kinds ...	<i>Ad valorem.</i>	
Iron,	Angle and T Iron ...	<i>Ad valorem.</i>	} One per cent.
"	Beams, Pillars, Girders and Bridge-work ...	<i>Ad valorem.</i>	
"	Flat, Square and Bolt, including Scotch ...	80 0 per ton.	
"	Hoop, Plate and Sheet ...	100 0 "	
"	Nails, Rivets, and Washers ...	10 0 per cwt.	
"	Nail Rod ...	90 0 per ton.	
"	Old ...	2 8 per cwt.	
"	Pig ...	40 0 per ton.	
"	Rod, Round, British, under half inch diameter ...	105 0 "	
"	Rod, Round, British, exceeding half inch diameter ...	80 0 "	
"	Swedish, Flat and Square ...	120 0 "	
"	Rice Bowls ...	3 0 per set of ten.	
"	" " " " ...	1 8 per set of six.	
"	Galvanised ...	<i>Ad valorem.</i>	
"	Other sorts, except Anchors, Cables, and Kentledge, which are free ...	<i>Ad valorem.</i>	
Lametta,	Double reels ...	4 8 per score.	
"	Single " ...	2 4 "	
Lead,	Pig ...	10 0 per cwt.	} Seven and a half per cent.
"	Pipes ...	13 8 "	
"	" tinned ...	16 0 "	
"	Sheets (other than thin Sheets for Tea Canisters, which are free) ...	12 0 "	
Ore Galena ...	... ..	13 0 "	
Gold leaf, Europe ...	... ..	4 0 per 100 leaves.	
Mock Gold leaf ...	... ..	5 0 per 20 books.	
Orsidue or Brass Leaves, foreign Europe ...	... ..	1 4 per lb.	
" " " " China ...	... ..	0 12 "	
Patent or Yellow Metals, Sheathing and Sheets and Bolts ...	... ..	35 0 per cwt.	
" do. old ...	... ..	30 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 Sheating ...	... ..	15 0 "	

SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Articles.	Value on which Duty is assessed.	Rate of Duty.
	METALS, &c.—continued.	RS. A.	
	Steel, Blistered	9 0 per cwt.	} Seven and a half per cent.
	„ British	9 0 „	
	„ Cast	25 0 „	
	„ Spring	10 0 „	
	„ Swedish	10 0 „	
	Tin, Block	45 0 „	
	„ Plates	12 8 „	
	Wire, Brass	0 8 per lb.	
	„ Common Iron, Nos. 1 to 40 ...	9 8 per cwt.	
	„ Copper	0 10 per lb.	
	Other sorts, including Hard-ware, Ironmongery, and Cutlery, but excluding Machinery, the component parts thereof, and Agricultural Implements, which are free ...	<i>Ad valorem.</i>	} Five per cent.
30	NAVAL STORES—		
	Cables, Coir, tarred	10 0 per cwt.	
	Canvas, Country, Cotton	50 0 „	
	„ Europe, Sail, not exceeding forty yards... ..	15 0 per bolt.	
	Coir, Rope, Maldivé 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 } not exceeding three cwt. and	} Seven and a half per cent.
	„ Coal	4 8 } <i>pro rata</i> above and below.	
	Tar, American	13 0 } Do. do.	
	„ Coal... ..	6 8 }	
	„ Swedish and Archangel	14 0 }	
	Twine, Europe, Sail	0 8 per lb.	
	All other sorts, except Oakum, which is free	<i>Ad valorem.</i>	
81	OILS—		
	Cardamom	10 0 per lb.	
	Cassia	4 0 „	
	Cinnamon, Ceylon	10 0 „	
	Cocoanut	20 0 per cwt.	
	Earth	10 0 „	
	Grass	2 0 per lb.	
	Jingele or Teel	20 0 per cwt.	
	Kerosine, Paraffine, Petroleum, Rock and Shale Oils of all descriptions.	0 12 per Impl. gal.	

SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
	OILS—continued.	RS. A.	
	Linseed, Country	18 0 per cwt.	} Seven and a half per cent.
	„ Europe	2 4 per Impl. gal.	
	Naphtha	30 0 per cwt.	
	Otto, of sorts	20 0 per ounce.	
	Sandalwood	8 0 per lb.	
	Sorrel	20 0 per cwt.	
	Turpentine	2 0 per Impl. gal.	
	Whale and Fish	15 0 per cwt.	
	Wood	15 0 „	
	All other sorts, except Cocum and Slush Fat, which are free ...	<i>Ad valorem.</i>	
32	OIL AND FLOOR CLOTH	<i>Ad valorem.</i>	Five per cent.
33	OPIMUM		Twenty-four rupees per seer of eighty tolas.
34	PAINTS, COLOURS, AND PAINTER'S MATERIALS—		} Seven and a half per cent.
	Ochre, all colours	3 0 per cwt.	
	Paints of sorts	12 0 „	
	Composition Paint and Patent Driers	30 0 „	
	Prussian Blue, China	0 8 per lb.	
	„ „ Europe	1 8 „	
	Red Lead	14 0 per cwt.	
	Turpentine	2 0 per Impl. gal.	
	Verdigris	75 0 per cwt.	
	Vermillion, Canton	80 0 } per box of	
	„ Macao	30 0 } 90 bundles.	
	White Lead	12 0 per cwt.	} Seven and a half per cent.
	All other sorts, including Brushes...	<i>Ad valorem.</i>	
35	PERFUMERY—		
	Atary, Persian	15 0 per cwt.	
	Rose Flowers, Dried	10 0 „	
	Rose Water	1 12 per Impl. gal.	
	All other sorts	<i>Ad valorem.</i>	
36	PHOTOGRAPHIC APPARATUS AND MATERIALS ..	<i>Ad valorem.</i>	
37	PIECE GOODS, NOT OTHERWISE DESCRIBED ...	<i>Ad valorem.</i>	Five per cent.
38	PORCELAIN AND EARTHEN-WARE	<i>Ad valorem.</i>	} Seven and a half per cent.
39	PROVISIONS AND OILMAN'S STORES—		
	Bacon in Canisters, Jowls and Cheeka	0 9 per lb.	

ACT No. XIII. OF 1871.
SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
PROVISIONS AND OILMAN'S STORES—contd.			
	Beef	RS. A. 60 0 per tierce of three cwt. 40 0 per barrel of two cwt.	Seven and a half per cent.
	Cheese	0 10 per lb.	
	Fish Maws	50 0 per cwt.	
	Fish Sozille and Singally, Small	6 0 per cwt.	
	Flour	25 0 per barrel or sack of 200 lbs.	
	Ghee	36 0 per cwt.	
	Hams	0 8 per lb.	
	Pork	50 0 per tierce of three cwt., and 34 0 per barrel of two cwt.	
	Shark Fins	20 0 per cwt.	
	Tongues, Salted	10 0 per keg of six.	
	Vinegar in Wood, Europe	1 8 per Impl. gal.	One per cent.
	" " Persian	0 12 "	
	" " Country	0 6 "	
	All other sorts, except Biche de mer, Butter and Salted Fish, which are free	Ad valorem.	
40	RAILWAY MATERIALS—		
	Of Iron	Ad valorem.	
	Steel Rails and other articles intended for the permanent way of railways	Ad valorem.	
	Other sorts	Ad valorem.	
41	RATTANS AND CANES—		Seven and a half per cent.
	Canes, Malacca	1 0 per dozen.	
	Rattans	7 0 per cwt.	
	All other sorts... ..	Ad valorem.	
42	SALT—		
	imported from any place whether within or without British India,		
	(a.) into British Burma	RS. A. 0 8 per maund.	
	(b.) into the territories under the government of the Lieutenant-Governor of Bengal	3 4 "	
	(c.) into any other part of British India	1 13 "	
43	SEEDS—		Seven and a half per cent.
	Anchuchuck	10 0 per cwt.	
	Anise, Europe	28 0 "	
	Assalia	7 0 "	

ACT No. XIII. OF 1871.
SCHEDULE A.

IMPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
SEEDS—continued.			
	Cajoo	RS. A. 3 0 per cwt.	Seven and a half per cent.
	Castor	4 8 "	
	Cummin	12 0 "	
	" Black	5 0 "	
	Esubgool	5 0 "	
	Linseed	5 0 "	
	Methee	5 0 "	
	Mustard	4 8 "	
	Quince Seed or Badana	50 0 "	
	Rape or Sursee	4 8 "	
	Sawjeerah	25 0 "	Ad valorem.
	Tookmeria	7 0 "	
	All other sorts, excepting Seeds imported by any Public Society for gratuitous distribution, which are free	Ad valorem.	
44	SHELLS—		
	Chanks, "large shells," for Cameos	10 0 per hundred.	
	" White, Live	6 0 "	
	" Dead	3 0 "	
	Cowdas, Mozambique and Zanzibar, from other places	3 0 "	
	" from other places	0 8 "	
	Cowries—		
	Bazar, Common	4 0 per cwt.	
	Maldiva	16 0 "	
	Sunkley	40 0 "	
	Yellow, Superior quality	8 0 "	Seven and a half per cent.
	Mother o'Pearl... ..	8 0 "	
	Tortoise Shell	6 0 per lb.	
	" Nuck	1 0 "	
	Nuckla and other sorts	Ad valorem.	
45	SILK—		
	Floss	8 0 per lb.	
	Raw, Charon and Cochin-China	4 0 "	
	" Mathow	1 12 "	
	" Other kinds of China	7 0 "	
	" Persian	5 0 "	
	" Punjum and Cutchra	1 12 "	
	" Siam	4 0 "	
	Sewing Thread, China	8 0 "	Ad valorem.
	Other sorts	Ad valorem.	
	Silk Piece Goods of sorts	Ad valorem.	
46	SOAP	Ad valorem.	

SCHEDULE A.

IMPORT TARIFF—concluded.

No.	Description of Article.	Value on which duty is assessed.	Rate of Duty.
47	SPICES—	RS. A.	
	Aloe Wood ...	3 0 per lb.	} Seven and a half per cent.
	Aniseed Star ...	40 0 per cwt.	
	Betelnut, White, Sheverdhun ...	18 0 "	
	" all other kinds ...	4 0 "	
	" in husk ...	2 0 per thousand.	
	Cassia Buds, Nagkessur, China ...	0 8 per lb.	
	Chillies, Dried ...	8 0 per cwt.	
	Cloves ...	12 0 "	
	" in Seeds, Nurlavung ...	8 0 "	
	Mace ...	0 9 per lb.	
	" false ...	10 0 per cwt.	
	Nutmegs ...	0 10 per lb.	
	" in Shell ...	0 6 "	
	" Wild ...	12 0 per cwt.	
	Pepper, Black and Long ...	14 0 "	
	" White ...	25 0 "	
	All other kinds ...	Ad valorem.	
48	STATIONERY OTHER THAN PAPER ...	Ad valorem.	
49	SUGAR AND SUGAR-CANDY—		
	Sugar-Candy, China ...	20 0 per cwt.	} Ten per cent.
	" Loaf ...	23 0 "	
	" Soft ...	12 0 "	
	All other sorts of Saccharine Produce ...	Ad valorem.	
50	TEA ...	1 0 per lb.	
51	TOBACCO—		
	Manufactured ...	Ad valorem.	} Ten per cent.
	Unmanufactured ...	Ad valorem.	
	Articles, such as Pipes, &c., used in consumption of ...	Ad valorem.	
52	TOYS AND REQUISITES FOR ALL GAMES ...	Ad valorem.	
53	UMBRELLAS—		
	Cotton, Steel Ribs ...	0 13 each.	} Seven and a half per cent.
	" Cane Ribs ...	0 11 "	
	" China Paper Kettisals ...	45 0 per box of 110.	
	All other sorts ...	Ad valorem.	
54	WOOLLEN GOODS—		
	Piece Goods ...	Ad valorem.	} Five per cent.
	Braid ...		
	Other sorts ...	Ad valorem.	
			Seven and a half per cent.

SCHEDULE B.

EXPORT TARIFF.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
1	COTTON GOODS—	RS. A.	
	Piece Goods—		
	Baftahs ...	30 0 per score.	} Three per cent.
	Gurrah ...	20 0 "	
	Khurwah ...	25 0 "	
	Mamoodie ...	32 0 "	
	Mirzapore Chintz ...	15 0 "	
	Patna ...	30 0 "	
	Shans ...	40 0 "	
	Tunjeeb, Oudh ...	26 0 "	
	Other sorts ...	Ad valorem.	
	Twist, Country, No. 10 ...	0 7 per lb.	
	" " " 20 ...	0 9 "	
	" " " 30 ...	0 10 "	
	" Hand Spun ...	0 5 "	
	All other kinds of Cotton Goods ...	Ad valorem.	
2	GRAIN OF ALL SORTS ...		Three annas per maund.
3	HIDES AND SKINS, TANNED—		
	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.	
4	INDIGO ...		Three rupees per maund.
5	LAC—		
	Button ...	28 0 per cwt.	} Four per cent.
	Dye ...	45 0 "	
	Seed ...	20 0 "	
	Shell ...	23 0 "	
	Stick ...	16 0 "	
	Other sorts ...	Ad valorem.	
6	OILS—		
	Castor ...	16 0 per cwt.	} Three per cent.
	Cocoanut ...	20 0 "	
	Fish ...	15 0 "	
	Grass ...	2 0 per lb.	
	Jingeely 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.	

ACT No. XIII. OF 1871.
SCHEDULE B.

EXPORT TARIFF—continued.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
7	SEEDS—	RS. A.	
	Castor Seed (Erundee) ...	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 "	
	Jingeely or Teel Seed ...	6 0 "	
	Linseed ...	5 0 "	
	Mothee Seed ...	5 0 "	
	Mustard Seed ...	4 8 "	
	Poppy Seed ...	5 8 "	
	Rape or Sursee Seed ...	4 8 "	
	Other sorts ...	Ad valorem.	
8	SPICES—		Three per cent.
	Aloe Wood ...	3 0 per lb.	
	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 ...	5 0 "	
	All other sorts ...	Ad valorem.	

SCHEDULE C.
(See Section 9.)

Number and Year.	Subject or Title.	Extent of Repeal.
Act XIV. of 1836 ...	Bengal Customs ...	So much as has not been repealed.
" VI. of 1844 ...	Madras Customs ...	So much of Schedules A. and B as has not been repealed.
" I. of 1852 ...	An Act for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay.	So much as has not been repealed.
" XXX. of 1854 ...	An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.	Section three from the beginning down to and including the words "shall be free ; provided that"
" XXIX. of 1857 ...	Bombay Land Customs ...	So much of section two as has not been repealed.
" XXII. of 1859 ...	An Act to amend Act I. of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay).	So much as has not been repealed.

SCHEDULE C—concluded.

Number and Year.	Subject or Title.	Extent of Repeal.
Act III. of 1861 ...	An Act to provide for the collection of Duty of Customs on Pepper exported by Sea from the British Port of Cochin.	The whole.
" II. of 1868 ...	An Act to alter the rate of duty leviable on pepper exported from Cochin.	The whole.
" 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.	In section two, the words "either by sea or"
" XVII. of 1870 ...	An Act to amend the Law relating to Customs Duties.	The whole.

ACT N^o. XIV. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st March 1871.)

An Act for the further amendment of the Consolidated Customs Act.

For the further amendment of the Consolidated Customs Act (No. VI. of
Preamble. 1863); It is hereby enacted as follows :—

1. Section twenty-three of the said Act shall be deemed to authorize and
Amendment of Act VI. of 1863, section 23. to have always authorized the Governor-General in Council
to prohibit or restrict the importation or exportation, by sea
or by land, or both by sea and by land, of any particular class of goods.

2. As often as any goods are lodged in a public warehouse or a licensed
private warehouse, the warehouse-keeper, or, in the case of
Warrant to be given every time goods are ware-
housed. the Bengal Bonded Warehouse Association, the Secretary of
the said Association, shall deliver a warrant signed by him
as such to the person lodging the goods.

Such warrant shall be in the form in the schedule to this Act annexed,
and shall be transferable by endorsement; and the endorsee
Form of warrant. shall be entitled to receive the goods specified in such warrant
on the same terms as those on which the person who originally lodged the goods
would have been entitled to receive the same.

3. All

3. All goods found on board any boat in excess of the boat-note or Custom house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation.

Goods found in boat in excess of boat-note or pass liable to confiscation.

Act to be read with Act VI. of 1863.

4. This Act shall be read with and taken as part of the Consolidated Customs Act.

SCHEDULE.

FORM OF BONDED WAREHOUSE WARRANT.

(See Section 2.)

I do hereby certify that _____ have deposited in the Warehouse of the under-mentioned goods _____ which goods, the engage on demand, after payment of rent and incidental charges and Government Dues or Customs chargeable thereon, to deliver to the said _____ or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

ACT N^O. XV. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st March 1871.)

THE BROACH THAKURS' RELIEF ACT.

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III.—DUTIES OF MANAGER.

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SCHEDULE.

An act to Relieve from incumbrances the Estates of Thakurs in Broach.

WHEREAS the majority of the Thákurs in Broach are in debt, and their
immovable property is subject to mortgages, charges and
liens; and whereas it is expedient to provide for their relief
in manner hereinafter appearing; It is hereby enacted as follows :—

I.—PRELIMINARY.

1. This Act may be called "The Broach Thákurs'
Relief Act."
2. In this Act—
'thákur' means a person mentioned in the schedule hereto annexed, and
'heir' means the person for the time being entitled as heir to a thákur.

II.—VESTING ORDER.

3. Whenever, within twelve months after the passing of this Act, any
thákur,
or (when such thákur 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 thákur 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,
applies in writing to the Governor of Bombay in Council, stating that the
thákur is subject to, or that his immovable 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 Governor of Bombay in Council, may by order published in the Bombay
Government Gazette, appoint an officer (hereinafter called the Manager), and
vest in him the management of the immovable property of or to which the
thákur 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 thákur or his heir during
the continuance of such management.

4. On

Effect of order.

4. On such publication, the following consequences shall ensue:—

Bar of suits against thákur. *firstly*, 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;

Thákur freed from arrest, *secondly*, so long as such management continues, the thákur and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the thákur 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 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 thákur 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 for or in respect of debts due, or liabilities incurred, to Government.

III.—DUTIES OF MANAGER.

Manager to receive rents and profits, 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.

From the sums so received, he shall pay—

and pay therefrom the Government demand, *firstly*, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

an annual sum for maintenance of the thákur and his heir, *secondly*, such annual sum as appears to the Governor of Bombay in Council requisite for the maintenance of the thákur, his heir and their families:

thirdly

costs of repairs and improvements, *thirdly*, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Governor of Bombay in Council,

costs of management, and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the thákur and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

IV.—SETTLEMENT OF DEBTS.

Notice to claimants against thákur. 6. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the Bombay Government Gazette a notice in English and Gujaráthí, calling upon all persons having claims against the thákur or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

Copies of notice to be exhibited. He shall also cause copies of such notice to be exhibited at the Mámlatdárs' Kachahrís in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

Claim to contain full particulars. 7. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up. 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.

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 thákur is subject, or with which his immoveable property or any part thereof is charged, and which

which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

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.

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 thákur and persons holding mortgages, charges or liens on the said property or any part thereof.

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.

11. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Governor of Bombay in Council, shall be carried into effect.

Until such approval is given, the Governor of Bombay in Council 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.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Governor of Bombay in Council thinks that the provisions of this Act should not continue to apply to the case of the thákur or his heir,

the thákur 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 thákur 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

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;

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 refuse to proceed with the investigation of the claim until such particulars are supplied.

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.

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.

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.

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.

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 a Collector possesses under the law for the time being in force for the realization and recovery of land-revenue due to Government.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the District Judge within whose jurisdiction the property is situate, and such

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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.

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, 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 Governor of Bombay in Council, 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 thákur is subject, or with which his immoveable property or any part thereof is charged,

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 thákur 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.

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 Governor of Bombay in Council may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when published in the Bombay Government Gazette, shall have the force of law.

21. Whenever

21. Whenever the Governor of Bombay in Council thinks fit, he may appoint any officer to be a Manager in the 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.

22. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act.

24. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

25. Nothing in this Act precludes the Courts of Broach, 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.

26. And whereas doubts have been raised as to the validity of Bombay Act No. VI. of 1862 (*for the amelioration of the condition of Talookdars in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

SCHEDULE.

The Thákur of Ahmód.
The Thákur of Saród.
The Thákur of Kerwára.
The Thákur of Dehej.
The Thákur of Janiádra.

ACT N^o. XVI. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st March 1871.)

THE BURMESE STEAMER SURVEY ACT.

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An Act for the survey of Steam Vessels plying within British Burmah.

WHEREAS it is expedient to provide for the survey of Steam Vessels plying within British Burmah; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

Short Title.

1. This Act may be called "The Burmese Steamer Survey Act:"

Local extent.

It extends only to the territories under the administration of the Chief Commissioner of British Burmah; and

Commencement.

It shall come into force at the expiration of one month from the passing thereof.

Interpretation-clause.

2. In this Act—

"Chief Commissioner" means the Chief Commissioner of British Burmah, and "Surveyors" includes any Surveyor acting alone when authorized by the Chief Commissioner under the provisions of this Act.

II.—Survey of Steamers.

3. Every Steam Vessel plying on any of the rivers or waters of British Burmah, except Steam Vessels plying between some Port within the said Provinces and some Port not in British India, shall be liable to be surveyed twice in every year, in the manner hereinafter prescribed.

Certain Steam Vessels
liable to be surveyed twice
a year.

4. The Chief Commissioner may appoint for the purposes of this Act any Ports in British Burmah to be ports of survey, and fit and proper persons to be Surveyors.

Government to appoint
Surveyors.

5. The said Surveyors, in the execution of their duties, may go on board any Steam Vessel liable to be surveyed under this Act, as soon as reasonably may be after the arrival of such Steam Vessel in the Port of Rangoon or any other Port of survey, and not so as unnecessarily to hinder the loading or unloading of such Steam Vessel, or to detain or delay her from proceeding on any voyage or service, and may inspect such Steam Vessel or any part thereof, and any of the machinery, equipments, or articles on board thereof.

Authority to Surveyors
to go on board Steamers
for the purpose of survey-
ing.

The Owner, Master, and Officers serving on board such vessel shall be bound to afford to the Surveyors all reasonable facilities for such inspection or survey, and to afford them all such information respecting such vessel and her machinery and equipments, or any part thereof respectively, as they may reasonably require.

6. When

6. When any survey is made under this Act, the Surveyors making such survey shall forthwith, if satisfied that they can with propriety do so, and on payment by the Owner or Master of the ship surveyed of the fees hereinafter mentioned, give him a certificate and declaration signed by them and framed as nearly as the circumstances of each case will admit in the form set forth in Schedule A hereto annexed.

7. No Officer of Customs shall grant a clearance nor shall any Pilot be assigned to any Steam Vessel, liable to be surveyed under this Act, which has not been duly furnished with a certificate and declaration under the provisions of this Act applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

If any Steam Vessel liable to be surveyed under this Act leaves or attempts to leave any Port of survey without such certificate and declaration, any Officer of Customs or any Pilot on board such Vessel may detain her until she is duly furnished with such certificate and declaration.

8. The Chief Commissioner may give special direction to the Surveyors under this Act for the survey by them of any British Steamer lying in any Port of survey and plying between such Port and any other Port or Ports, and the provisions of this Act shall apply (so far as the same are applicable) to every vessel so specially directed to be surveyed, and the Owner, Master, and Officers thereof.

9. The Chief Commissioner may frame rules consistent with this Act as to—

- (a) the manner in which the surveys shall be made,
- (b) the times and places of such surveys, and
- (c) the duties of the Surveyors.

10. For every survey made under this Act the Owner or Master of the Steam Vessel surveyed shall pay to each of the Surveyors making the same a fee, calculated on the tonnage of the vessel according to the rates in Schedule B hereto annexed.

11. Each certificate and declaration granted by Surveyors under this Act shall be hung up, and remain at all times suspended in some conspicuous part of the vessel for which the same is granted, where the same may be easily read.

12. No

12. No certificate or declaration shall be in force for the purposes of this Act after the expiration of six months from the date thereof; provided that if any Steam Vessel is not in any Port of survey when her certificate and declaration expire, no penalty shall be incurred for the want of a certificate and declaration, until she first begins to ply, or is about to ply after her next subsequent arrival at some Port of survey.

Certificates to be in force only six months, and to be delivered up when expired or revoked.

The Chief Commissioner may require any certificate and declaration which has expired or has been revoked or cancelled to be delivered up as may be directed.

Provision in case of vessels absent from Port when certificate expires.

13. The Chief Commissioner may revoke and cancel any certificate and declaration granted under this Act in any case in which he has reason to believe—

- (1.) that the certificate and declaration of the sufficiency and good condition of the hull, equipments, and machinery of any Steam Vessel, or either of them have been fraudulently or erroneously given or made, or,
- (2.) that such certificate and declaration have otherwise been issued upon false or erroneous information, or,
- (3.) that since the giving and making of such certificate and declaration the hull, equipments, or machinery of such ship have sustained any injury or are otherwise insufficient.

And in every such case the Chief Commissioner may, if he thinks fit, require the Owner or Master to have such Steam Vessel again surveyed as herein provided.

14. If any Steam Vessel is surveyed under the provisions of this Act, and if the Surveyors decline to give any certificate or declaration or give a certificate or declaration with which the Owner or Master of the Steam Vessel is dissatisfied, the Chief Commissioner may, on the application of such Owner or Master, appoint two other competent Surveyors to survey the said Steam Vessel.

The Surveyors so appointed shall forthwith survey the said Steam Vessel, and shall either decline to give any certificate and declaration, or shall give such certificate and declaration as under the circumstances may seem to them proper.

Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

If the Surveyors appointed under this section unanimously refuse to give any certificate and declaration, or agree as to the terms of their certificate and declaration, such refusal or such certificate and declaration shall be final and conclusive;

conclusive; but if they do not agree, the refusal originally made, or the certificate and declaration originally granted by the Surveyors who surveyed the said Steam Vessel in the first instance, shall remain in force.

Explosions.

15. Whenever any explosion occurs on board of any Steam Vessel subject to this Act, the Chief Commissioner may, if he thinks fit, direct that an investigation of the cause of such explosion be made by such person or persons as he thinks fit.

Such person or persons may enter into and upon such Steam Vessel with all necessary workmen and labourers, and remove any portion of such Steam Vessel, or of the machinery thereof, for the purpose of such investigation, and shall report the cause of such explosion.

III.—Examinations and Certificates of Engineers.

16. Examinations shall be instituted for persons who intend to become Engineers of Steamers, or who wish to procure Certificates of Competency hereinafter mentioned.

17. The Chief Commissioner shall, from time to time, nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and may make rules for the conduct of such examinations, and as to the qualifications to be required, and the fees to be paid by all applicants for examination.

18. The Chief Commissioner shall deliver to every applicant who is reported by the Examiners to have passed the Examination satisfactorily, a certificate (hereinafter called a "Certificate of Competency") to the effect that he is competent to act as Engineer.

19. Every person who, before the passing of this Act, has served for a period of not less than one year as first or only Engineer in any Steam Vessel, or who has attained or shall attain the rank of First Class Assistant Engineer in the Service of Her Majesty, shall be entitled to a Certificate of Service.

Each of such Certificates of Service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered.

And the Chief Commissioner shall deliver such Certificates of Service to the various persons so respectively entitled thereto, upon their proving themselves to

to have attained such rank, or to have served as aforesaid; and, upon their giving a full and satisfactory account of the particulars aforesaid, and on payment of such fees as the Chief Commissioner shall, by an order published in the local official Gazette, from time to time direct.

20. No Certificate of Survey under this Act shall be granted for any Steam Vessel, unless it has as its Engineer an Engineer possessing a Certificate of Competency or a Certificate of Service.

21. The Chief Commissioner may exempt from the operation of section twenty any Steamer which does not ply with passengers or goods, or as a Steam Tug for hire.

22. It shall be lawful for the Chief Commissioner, in case of the misconduct, negligence, or incompetency of any Engineer possessing a Certificate of Competency or a Certificate of Service, to cancel such Certificate, or to suspend the same for such time as to him or them shall seem fit.

23. Every Engineer's Certificate of Competency or Service, which may be granted by any competent authority in the United Kingdom, shall have, in all respects, the same validity and effect as if the same had been granted under the provisions of this Act.

24. All Certificates, whether of Competency or Service, shall be made in duplicate, and one part shall be delivered to the person entitled to the Certificate, and the other shall be kept and recorded as the Chief Commissioner directs.

A note of all orders made for cancelling, suspending, altering, or otherwise affecting any Certificate in pursuance of the powers herein contained, shall be entered in the record of Certificates.

25. Whenever any Engineer proves to the satisfaction of the Chief Commissioner, that he has, without fault on his part, lost or been deprived of any Certificate already granted to him, a Copy of the Certificate to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.

IV—Penalties.

26. Any person refusing access to any Surveyors or other persons under this Act, or otherwise hindering them in the performance of their duty, or refusing or neglecting to give any information which may reasonably be required of him, and which he has in

in his power to give, shall be liable for each offence to fine not exceeding five hundred rupees, or to imprisonment for a term not exceeding one month.

27. If any Steam Vessel liable to be surveyed under this Act leaves or attempts to leave any port of survey without such Certificate and Declaration as is mentioned in section seven, the Owner or Master of such Vessel shall, for each offence, be punished with fine not exceeding one thousand rupees.

28. If the Commander or any other Officer of a Tug Steamer or of any other Steam Vessel, liable to be surveyed under this Act, is a licensed Pilot and leaves or attempts to leave any Port of survey in such Tug Steamer or Steam Vessel without such Certificate and Declaration under the provisions of this Act, applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed, such Commander or other Officer shall be liable to have his license as a Pilot taken away from him entirely or suspended for any period by the Chief Commissioner as the Chief Commissioner may see fit to order.

29. Any Surveyor demanding or receiving directly or indirectly from the Owner, Master, or Officer of any ship surveyed by him under the provisions of this Act, any fee or remuneration otherwise than as provided by this Act, shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.

30. The Owner or Master of every Steam Vessel in which the Certificate and Declaration granted under this Act is not hung up and does not remain in manner provided by section eleven, shall, for each offence, be punished with fine not exceeding one hundred rupees.

31. Any Owner or Master or other person who without reasonable cause neglects or refuses to comply with any requirement made under section twelve shall be punished with fine not exceeding one hundred rupees for each offence.

32. The Owner, and also the Master, of any Steam Vessel subject to this Act, which plies on any of the rivers or waters in British Burmah, without having in charge of the engines thereof an Engineer possessing a Certificate of Service or a Certificate of Competency, shall be liable to a fine not exceeding five hundred rupees.

33. Any

33. Any case arising out of this Act may be tried by any Officer having the full powers of a Magistrate within whose jurisdiction the offence may have been committed, or by any Police Magistrate of the town of Rangoon.

The provisions of sections fifty-five of Act XXII. of 1855 (for the regulation of Ports and Port dues) are hereby extended to all fines imposed under this Act, and all fees due under section ten shall be recoverable as if they were fines.

SCHEDULE A.

(See Section 6.)

Form of Surveyors' Certificate and Declaration.

Name of Steam Vessel.	Tonnage.	When and where built and material.	Power.	Description of Engines and age.	Description of Boilers and age.	Ground tackle.	Condition of Hull.	General Equipment.	Name of Master and Number of Officers and deck crew and of Engineers and Engine-room crew.	When and where last coppered, repaired, or cleaned	Limits (if any) beyond which the vessel is not fit to ply.	Time if less than six months for which the Hull, Boilers, Engines, or any of the Equipments will be sufficient.

We, the undersigned, declare that we have examined the above-named Steamer, and to the best of our judgment she and her engines, as shown in the above Statement, are fully sufficient for the service on which it is intended to employ the said Steamer, that is to say (as the case may be).

A. B.
C. D.

SCHEDULE B.

(See Section 10.)

Rates of Fees.

For Steamers of less than	200 Tons	Rs.	20	0	0
" " 200 tons and up to	350 "	"	25	0	0
" " 350 " " "	700 "	"	30	0	0
" " 700 " " "	1,000 "	"	40	0	0
" " 1,000 " " "	1,500 "	"	50	0	0
" " 1,500 " and upwards		"	60	0	0

Master Attendant.

ACT N^o. XVII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 31st March 1871.)

An Act to provide for the Levy of Rates on Land in Oudh.

WHEREAS it is expedient to provide for the levy of rates on land in Oudh to be applied to local purposes; It is hereby enacted as follows:—

Preamble.

Short title. 1. This Act may be cited as "The Oudh Local Rates Act: "

Local extent. It extends only to the territories under the administration of the Chief Commissioner of Oudh;

Commencement. And it shall come into force on the first day of [Apri 1871.

2. In this Act—

"Land " means land assessed to the land-revenue, and includes land where- of the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned:

Interpretation-clause.

"Landholder " means the person in receipt of the rent of any land, and responsible for the payment of the land-revenue, if any, assessed on the estate. It also includes a Muáfidár or other person holding land, the land-revenue of which has been wholly or in part released, compounded for, redeemed, or assigned:

"Estate"

"Estate" means all or any part of a village separately assessed to the land-revenue, or separately exempted for payment thereof; and

"Annual value." "Annual value" means—

(1.) Where the settlement of the land-revenue is liable to periodical revision, — double the amount of the land revenue assessed on an estate;

(2.) Where such settlement is not liable to periodical revision, or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned, — double the amount which, if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption, or assignment, have been assessed as land-revenue on the estate.

3. The Chief Commissioner may impose on every estate a rate not exceeding one and a quarter per cent. on its annual value. Such rate shall be payable annually by the landholder, independently of, and in addition to, any land-revenue for the time being assessed on the estate and any local cesses now leviable therefrom.

4. All sums due on account of any rate imposed under this Act, shall be recoverable as if they were arrears of land-revenue due in respect of the land on account of which the rate is payable.

5. Every landholder may recover from his co-sharers or pattidárs, if any, a share of the rate bearing the same proportion to the whole rate that the annual value of the share of such co-sharer or pattidár, recorded at the time of the settlement, bears to the annual value of the whole estate.

6. Whenever the rate is charged on a landholder on account of land in the use or occupation of an under-proprietor or permanent lessee, or of a tenant with right of occupancy, whose rent has been fixed or recorded by a competent Court, such landholder may realize from such under-proprietor, lessee, or tenant a share of the rate bearing the same proportion to the whole rate that the share of such under-proprietor, lessee, or tenant in the annual value of the land on which the rate is charged bears to half the annual value of such land.

7. Suits for the recovery from co-sharers, under-proprietors, permanent lessees, or tenants as aforesaid, of any sum on account of any rate imposed under this Act, and all suits on account of illegal

illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts of Revenue in Oudh,

and the provisions of the Oudh Rent Act (No. XIX. of 1868), chapters VII., VIII., and IX., as to similar classes of suits, shall apply to the suits mentioned in the former part of this section.

8. An appeal shall lie to the Commissioner from the order of any person authorized, under the power hereinafter conferred, to make assessments, in any matter connected with the assessment of any sum leviable under this Act: provided that such appeal be presented within thirty days from the date of the order.

The decision of the Commissioner on such appeal shall be final; but all such decisions may be reviewed by the Chief Commissioner.

9. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund.

10. The Chief Commissioner shall, from time to time, assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes—

- (1.) The construction, repair, and maintenance of roads and communications;
- (2.) The construction and repair of school-houses, the maintenance and inspection of schools, the establishment of scholarships, and the training of teachers;
- (3.) The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility likely to promote the public health, comfort, or convenience.

Such assignment shall not be less than the total sum assessed under this Act in such district in the year in which the assignment was made.

11. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Chief Commissioner, be re-assigned for expenditure in the same district, or may be applied for the benefit of the Province of Oudh in such manner as the Chief Commissioner from time to time directs.

12. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of the assignment made under section ten, shall be kept in each district.

Such

Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

13. The Chief Commissioner shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of assisting in determining how the amount mentioned in section ten shall be applied, and in the supervision and control of the expenditure of such amount:

Provided that not less than one-half of the members of such Committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein.

The Chief Commissioner shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.

14. The Chief Commissioner may, by notification, from time to time,

- (a) prescribe by what instalments and at what times any rate imposed under this Act shall be payable, and by whom it shall be assessed, collected, and paid;
- (b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;
- (c) exempt any portion of the territories under his administration from the operation of this Act.

Every notification under this section shall be published in the local official Gazette.

ACT N^o. XVIII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 6th April 1871.)

An Act for the levy of rates on Land in the North-Western Provinces.

WHEREAS it is expedient to provide, in the North-Western Provinces of the Presidency of Fort William, for the levy on land of rates to be applied to local purposes; It is hereby enacted as follows:—

I.—Preliminary.

1. This Act may be called “The North-Western Provinces Local Rates Act, 1871:”

It extends only to the territories subject to the Lieutenant-Governor of the North-Western Provinces; and it shall come into force on the passing thereof.

2. In this Act—

“Commissioner” means Commissioner of a Division;

“Collector” means the Head Revenue Officer of a district;

“Land” means land used for agricultural purposes, or waste land which is cultivable;

“Tenant” means any person using or occupying land, and liable to pay or deliver rent therefor;

“Landlord”

"Landlord" means the person responsible for the payment of the Government land-revenue, if any, assessed on an estate, and includes a muáfidár, nazránádár or other person holding land, whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned;

"Estate" means all or any part of a village separately assessed to the land-revenue, or separately exempt from the payment thereof.

II.—Rates on Land in Districts of which the Settlement is liable to Revision.

3. Every estate situate in any district in which the term of the settlement of the land-revenue made under Regulation IX. of 1833 has expired, shall be liable to the payment of such rate, not exceeding five per cent. on its annual value, as the Lieutenant-Governor from time to time imposes.

Such rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate:

Provided that, in estates in which, before the passing of this Act, provisional engagements have been taken from the landlord for the payment of the land-revenue and cesses in one consolidated sum, and in which it appears to the Lieutenant-Governor inexpedient to cancel such engagements, one-eleventh part of such sum shall be deducted on account of such cesses, and shall be treated in all respects as if it were a portion of a rate levied under the former part of this section.

"Annual value" means as follows:—

- (1). In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue for the time being assessed on an estate;
- (2). In cases in which such settlement is not liable to such revision, or in which the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

III.—Rates on Land in Estates of which the Land-revenue is not liable to periodical Revision.

4. Every estate situated in a district of which the land-revenue is not liable to periodical revision, shall be liable to the payment of such rate as the Lieutenant-Governor from time to time imposes, not exceeding two annas for each acre under cultivation, or which

Rate on estates where revenue is not periodically revised.

which has been cultivated within the three years next before the assessment of the rate.

5. The rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate, and in addition to the cess levied now on account of roads.

Lieutenant-Governor to prescribe rules for ascertaining area of assessable land.

6. The Lieutenant-Governor shall from time to time prescribe rules for ascertaining the area of the land assessable under section four.

7. The landlord may recover, from every tenant of land on which such rate has been assessed, and for the payment of which the landlord is liable, an amount equal to one-half of the rate assessed on the land held by such tenant.

Landlord's right to recover half rate from tenants.

8. The Lieutenant-Governor may from time to time make rules consistent with this Act for determining the cases in which a landlord shall be entitled to recover, from tenants holding at fixed or beneficial rates of rent, the whole or any portion of the rate assessed on the land held by such tenants.

Power to make rules as to when a landlord may recover rates from tenants holding at fixed or beneficial rates.

IV.—Manner in which the Rates are to be expended.

Rates to be carried to general fund.

9. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund.

10. The Lieutenant-Governor shall from time to time assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes:—

Assignments from general fund.

- (1). The construction, repair, and maintenance of roads and communications;
- (2). The maintenance of the rural police and district post.
- (3). The construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;
- (4). The construction and repair of hospitals; dispensaries, lunatic asylums, markets, wells, and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort, or convenience.

Such assignment shall not be less than the total sum levied under this Act in such district in the year in which the assignment was made.

11. In

11. In the case of works which benefit more districts than one, the Local Government may determine what proportion of the expense of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

12. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Lieutenant-Governor, be re-assigned for expenditure in the same district, or may be applied for the benefit of the North-Western Provinces, in such manner as the Lieutenant-Governor from time to time directs.

13. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of such assignment, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

14. The Local Government shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of determining how the amount mentioned in section ten shall be applied, and in the supervision and control of such amount:

Provided that not less than one-half of the members of such Committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein.

The Lieutenant-Governor shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.

V.—Miscellaneous.

15. Suits for the recovery from co-sharers, tenants, or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Collector as if such suits had been included

included among the suits mentioned in section twenty-three of Act No. X. of 1859, and in section one of Act No. XIV. of 1863,

and appeals from decisions in such suits shall be cognizable in accordance with the provisions of Act No. X. of 1859 and Act No. XIV. of 1863.

16. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie to the Commissioner from the order of the Collector, provided that such appeal be presented within thirty days from the date of the order.

The Commissioner's decision on such appeal shall be final; but all such decisions may be reviewed by the Board of Revenue.

17. The Lieutenant-Governor may invest any officer subordinate to a Collector with all or any of the powers of a Collector for the purposes of this Act.

The orders passed by any officer so invested shall be subject to revision by the Collector of the district.

18. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

19. The Lieutenant-Governor may, by notification from time to time,

(a) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected, and paid;

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(c) exempt any portion of the territories under his government from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act;

(d) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the *Government Gazette, North-Western Provinces*.

ACT N^o. XIX. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th May 1871.)

An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.

WHEREAS it is expedient to provide for the appointment of Sessions Judges in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal ; It is hereby enacted as follows :—

Short title.

1. This Act may be called “The Bengal Sessions Courts Act, 1871.”

Extent and commencement of Act.

It extends to the territories for the time being subject to the said Lieutenant-Governors, respectively, and shall come into force on the passing thereof.

Local Governments may appoint Sessions Judges and Additional Sessions Judges.

2. The Local Governments may appoint Sessions Judges and Additional Sessions Judges, and may invest any persons with all or any of the powers of Sessions Judges under this Act, and shall define, and may from time to time vary, in each case, the local limits within which such Sessions Judges, Additional Sessions Judges, or persons so invested shall exercise jurisdiction.

3. All

3. All persons who have been heretofore appointed Sessions Judges or Additional Sessions Judges, or who under the authority of the Local Government have exercised the powers of Sessions Judges in the said territories, shall be deemed to have been appointed or empowered under, and in conformity to, the provisions of this Act.

Present Sessions Judges and Additional Sessions Judges to be deemed appointed under this Act.

4. The local limits of the jurisdiction of the said persons shall be the same as those within which they now exercise jurisdiction, and they shall continue to hold their Courts at the place or places in which they are now held, unless and until the Local Government shall otherwise direct.

Existing local jurisdiction preserved.

5. The Sessions Judges, Additional Sessions Judges, and other persons appointed or invested as aforesaid shall be Courts of Session, and shall exercise any powers other than those of a Court of Session which are at present exercised by Sessions Judges in the said territories respectively.

Powers of Sessions Judges and Additional Sessions Judges so appointed.

6. Every officer appointed or invested as aforesaid shall hold his Court at such place or places as the Local Government directs either generally or in any particular instance: and the Local Government may specify the place or places at which offences committed within any particular portion of the local jurisdiction of any such officer and triable by a Court of Session shall be tried: and may from time to time empower and direct any such officer to try any such offences which have been committed beyond the local limits of such officer's ordinary jurisdiction.

Local Government to appoint places for the trial of cases.

7. No judgment heretofore given, order passed, or proceeding had before any person who at any time has been appointed a Sessions Judge or Additional Sessions Judge or who has been empowered to act as such in Bengal or the North-Western Provinces, shall be deemed to be or to have been invalid, and no suit shall lie in any Court in respect of any such judgment, order or proceeding, merely on the ground that such Sessions Judge or Additional Sessions Judge or person empowered to act as such was not appointed or empowered in conformity to law.

Indemnity-clause.

ACT N^o. XX. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 20th June 1871.)

An Act to provide for the levy of rates on land in the Panjáb.

WHEREAS it is expedient to provide for the levy of rates on land in the Panjáb to be applied to local purposes; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called 'The Panjáb Local Rates Act, 1871':

Local extent.

It extends only to the territories for the time being under the government of the Lieutenant-Governor of the Panjáb, inclusive of any territory that may, from time to time, be removed, under the provisions of the Agror Valley Act, 1870, from the jurisdiction of the tribunals established under the general Regulations and Act;

Commencement.

And it shall come into force on the passing thereof.

Interpretation-clause.

2. In this Act—

'Land' means land assessed to the land-revenue, and includes land whereof the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned;

'Land.'

'Landholder' means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes a person holding land, the land-revenue of which has been, wholly or in part, released, compounded for, redeemed or assigned;

'Landholder.'

'Annual

'Annual value.'

'Annual value' means—

(1) double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not;

(2) and, where the land-revenue has been permanently assessed, or has been, wholly or in part, compounded for or redeemed—

double the amount which, but for such permanent assessment, composition or redemption, would have been leviable.

3. All land shall be liable to the payment of such rate as the Lieutenant-Governor from time to time directs, not exceeding six pies for every rupee of its annual value.

Such rate shall be computed as from the first day of April 1871, and shall be paid by the landholder independently of, and in addition to, any land-revenue assessed on land for the land-revenue of which he is responsible, and any local cesses now leviable therefrom.

Provided that wherever the proprietors of any land pay the land-revenue in kind to any assignee of revenue or any village headman, such assignee of revenue or village headman shall be responsible for the payment of the said rate, instead of the proprietors, and no demand shall be made by any such assignee or village headman on any such proprietor in respect of the payment of any such rate.

4. Whenever a rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value.

Illustration.—A is a landholder of an estate of which the land-revenue is Rs. 50. The annual value therefore is Rs. 100, and the maximum rate would be Rs. 3 Annas 2. The estate is held by a tenant with right of occupancy at Rs. 75 rental.

Supposing the maximum rate to be levied, A will be entitled to recover from the tenant Rs. 1-9, or half the rate, thus—

As half the annual value.	is to	Excess of the annual value over the tenant's rent.	so is	The whole rate	to	The portion which the landholder can recover from tenant.
i. e.,		i. e.,		viz.,		i. e.,
50	:	25	::	RS. AS. 3 : 2	:	RS. AS. 1 : 9

Rates to be carried to general fund.

5. The proceeds of all rates levied under this Act shall be carried to the credit of the Local Government.

6. The

6. The Lieutenant-Governor shall from time to time assign from the funds at his disposal an amount to be applied in each district for expenditure on all or any of the following purposes:

(1) the construction, repair and maintenance of roads and communications;

(2) the construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

(3) the construction and repair of hospitals, dispensaries, lunatic asylums, wells and tanks, the planting and preservation of trees, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

The aggregate of such assignments in any one year shall not be less than the total sum levied under this Act in such district in the year in which the assignment is made.

7. In the case of works which benefit more districts than one, the Lieutenant-Governor may determine what proportion of the expenses of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

8. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Lieutenant-Governor, be re-assigned for expenditure in the same district, or may be applied for the benefit of the Panjáb, on such one or more of the purposes mentioned in section six as the Lieutenant-Governor from time to time directs.

9. Accounts of the receipts in respect of all rates levied under this Act, and of the assignments made under section six, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the local committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the Vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

10. The

10. The Lieutenant-Governor shall appoint, in each district, a committee, Local Committees. consisting of not less than six persons, for the purpose of determining how the amount mentioned in section six shall be applied, and of supervising and controlling such amount:

Provided that not less than one-third of the members of such committee shall be persons not in the service of Government, and owing or occupying land in the district, or residing therein:

The Lieutenant-Governor shall from time to time prescribe the manner in which the members of such committee shall be appointed or removed, and shall define the functions and authority of such committee.

11. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on Suits under Act cognizable by Courts having cognizance of suits for rent. account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the courts which, for the time being, have cognizance of suits for rent due on land.

12. In matters connected with the assessment and collection of any sum Limitation of appeals. leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments to such person as the Lieutenant-Governor appoints:

Provided that such appeal shall be presented within thirty days from the date of such order.

The order of such person on such appeal shall be final.

13. All sums due on account of any rate imposed under this Act shall be Recovery of rates. recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

14. The Lieutenant-Governor may, by notification from Supplementary powers of Local Government. time to time,

(a) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid;

(b) appoint the person or class of persons to whom the appeals referred to in section twelve shall lie;

(c) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(d) exempt wholly or in part any portion of the territories under his government from the operation of this Act, or exempt any land from liability to pay the whole or any part of any rate under this Act;

(e) direct

(e) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the *Government Gazette, Punjab.*

ACT N^O. XXI. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th July 1871.)

An Act to give validity to the operation of the General Regulations and Acts within the 'Dehrá Dún.'

Whereas it is necessary to give validity to the operation of the General Regulations and Acts within the district under the Superintendent of the Dehrá Dún, and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts; It is hereby enacted as follows:—

1. The Regulations and Acts now in force in the district of Saharunpúr are hereby declared to extend to the said district of Dehrá Dún, and no judgment heretofore given, order passed or proceeding had in the said district, shall be deemed to have been or to be invalid merely because any Regulation or Act, under or in reference to which such judgment, order or proceeding was given, passed or had, was not in force at the time of such judgment, order or proceeding, or on the ground of a defect of jurisdiction in any Court or officer.

2. The High Court and the Board of Revenue of the North-Western Provinces shall exercise, and shall be deemed to have been heretofore authorized to exercise, respectively in the said district, all the powers which the said High Court or Board of Revenue are

are at present respectively authorized to exercise in any part of the North-Western Provinces.

3. The District Court of Saharunpúr shall be deemed to have been heretofore the District Court of the said district of Dehrá Dún, and shall be the District Court of such district until the Local Government otherwise directs; and may, subject to the provisions of Act VI. of 1871, hear appeals from decisions given in the said district before the passing of this Act.

4. Nothing in this Act shall apply to that portion of the Dehrá Dún district called Jounsar Bawur and referred to in section eleven of Act XXIV. of 1864.

Saving of Jounsar Bawur from the operation of this Act.

District Court of Saharunpúr to be deemed the District Court of the Dehrá Dún.

ACT No. XXII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st August 1871.)

An Act to authorise the extension of the Chaukidari Act to places where there is no Jamadar of Police.

Whereas by Act No. XX. of 1856 (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 two, the Local Government is restrained from extending that Act to any City, Town, Suburb, or Bazaar, unless there be therein (or in some other City, Town, Suburb, or Bazaar with which the same may be united as thereafter provided) a police station under an officer of a grade not below that of a jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of section two, Act No. XX. of 1856.

1. Instead of the second section of the said Act, the following shall be read:—

“II. The provisions of this Act shall have effect in all Cities, Stations, Towns, Suburbs, and Bazaars in the said Presidency to which the Local Government may, at any time, extend the same by notification in the Official Gazette: Provided always that this Act shall not be extended to any agricultural village.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.”

2. Instead

Amendment of section eleven of the said Act.

2. Instead of section eleven of the said Act, the following shall be read:—

“XI. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukidár of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.”

Amendment of section thirty-eight.

3. Instead of section thirty-eight of the said Act, the following shall be read:—

“XXXVIII. On such dates as may be fixed by the Pancháyats for payment of instalments of the tax, the Tax Darogah shall proceed in person, or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected, the Darogah shall grant a receipt: Provided that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.”

4. In the forty-first section of the said Act, instead of the words “On the 20th of each calendar month,” there shall be read the words “On the tenth day after the date fixed for the payment of instalments of the tax.”

5. In Appendix A, at the end of the first paragraph, the words “and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop, or building in the District,” shall be omitted.

In Appendix C the words “the first payment on the tenth day of the month next succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month,” shall be omitted.

6. This Act shall be read with, and taken as part of, the said Act XX. of 1856, but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.

Construction.
Saving of Bengal from the operation of this Act.

ACT No. XXIII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th August 1871.)

An Act to consolidate and amend the law relating to Pensions and grants by Government of money or land-revenue.

Whereas it is expedient to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called “The Pensions’ Act, 1871.”

Extent of Act.

It extends to the whole of British India;

Commencement.

And it shall come into force on the date of the passing thereof, but not so as to affect any suit in respect of a pension or grant of money or land-revenue which may have been instituted before such date.

Enactments repealed.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

Saving of rules.

But all rules in regard to the award and payment of pensions or grants of money or land-revenue, and the identification of the persons entitled to receive them, made under any such enactment, shall

shall be deemed to have been made under this Act so far as they are consistent therewith.

- 3.** In this Act, the expression "grant of money or land-revenue" includes anything payable on the part of Government in respect of any right, privilege, perquisite, or office.

Interpretation-section.

II.—Rights to Pensions.

- 4.** Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim, or right for which such pension or grant may have been substituted.

Bar of suits relating to pensions.

- 5.** Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorized in this behalf by the Local Government, and such Collector, Deputy Commissioner, or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

Claims to be made to Collector, Deputy Commissioner, or other authorized officer.

- 6.** A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner, or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

Power of Civil Court to take cognizance of such claims.

Pensions for lands held under grants in perpetuity.

- 7.** Nothing in sections four and six applies to—

(1) any inam of the class referred to in the first section of Madras Act no. IV. of 1862;

(2) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part, as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

III.—Mode

III.—Mode of Payment.

- 8.** All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer, subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue Authority.

Payment to be made by Collector, Deputy Commissioner, or other authorized officer.

- 9.** Nothing in sections four and eight shall affect the right of a grantee of land-revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

Saving of rights in respect of the recovery of land-revenue.

- 10.** The Local Government may, with the consent of the holder, order the whole or any part of his pension or grant of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

Commutation of pensions.

IV.—Miscellaneous.

- 11.** No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance,

Exemption of pension from attachment.

and no money due or to become due on account of pay such pension or allowance,

shall be liable to seizure, attachment, or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

- 12.** All assignments, agreements, orders, sales, and securities of every kind made by the person entitled to any pension, pay, or allowance mentioned in section eleven, in respect of any money not payable at or before the making thereof, on account of any such pension, pay, or allowance, or for giving or assigning any future interest therein, are null and void.

Assignments, &c., in anticipation of such pensions, to be void.

- 13.** Whoever proves to the satisfaction of the Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof, shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

Reward to informers.

- 14.** The

14. The Chief Controlling Revenue Authority may, with the consent of the Local Government, from time to time, make rules consistent with this Act respecting all or any of the following matters:—

- (1) the place and times at which, and the person to whom, any pension shall be paid,
 - (2) inquiries into the identity of claimants,
 - (3) records to be kept on the subject of pensions,
 - (4) transmission of such records,
 - (5) correction of such records,
 - (6) delivery of certificates to pensioners,
 - (7) registers of such certificates,
 - (8) reference to the Civil Court under section six, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government,
- and generally for the guidance of officers under this Act.
- All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

SCHEDULE.

I.—BENGAL REGULATIONS.

Number and year.	Title or Subject.	Extent of Repeal.	Number and year.	Title of Subject.	Extent of Repeal.
XXIV. of 1793.	A Regulation for re-enacting with Modifications, the Rules passed by the Governor-General in Council on the 10th June 1791, for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of Land, but included in the Jumma or Revenue payable to Government at the Decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished.	The whole.	XXIV. of 1803	A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive Pensions, under the Denominations of Saleanah, Rozanah, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	The whole.
			I. of 1804.	A Regulation for the better Management of the Invalid Jagheerdar Establishments, and of the Invalid Pension Establishments.	Sections twenty-three to twenty-six inclusive.
XXXIV. of 1795.	A Regulation for re-enacting, with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.	The whole.	XXII. of 1806	A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.	The whole.
			II. of 1811.	A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non-Commissioned Officers.	The whole.

I.—BENGAL REGULATIONS.—(Continued.)

Number and year.	Title or Subject.	Extent of Repeal.	Number and year.	Title or Subject.	Extent of Repeal.
XI. of 1813.	A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the Abuses committed in the receipt of Pensions.	The whole.	VI. of 1817.	A Regulation to explain the Purport and Intent of the Provision contained in Section II., Regulation XXIV., 1803.	The whole.
II.—MADRAS REGULATIONS.			III.—BOMBAY REGULATIONS.		
I. of 1803.	A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.	Section forty-three.	XXXIX. of 1827.	A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh.	Section six, clauses 2 & 3.
II. of 1803.	A Regulation for describing and determining the Conduct to be observed by Collectors in certain Cases.	Section thirty.	IV.—ACTS.		
IV. of 1831.	A Regulation for better securing to the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges or of Zemindaries, or Pollams forfeited or held under Attachment or Management by the Officers of Government, or as Yeomiahs or Pensions.	The whole.	XXXI. of 1836	Government Grants ...	The whole.
			XXIII. of 1838	Exemption of grants from attachment.	The whole.
			VI. of 1849	An act for securing Military and Naval Pensions and Superannuation Allowances.	The whole.

24/10/1871

ACT NO. XXIV. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th September 1871.)

The Local Public Works Loan Act, 1871.

Title.

1. This Act may be called "The Local Public Works Loan Act, 1871."

Extent and commencement.

It shall extend to the whole of British India, and shall come into force upon the passing thereof.

Loans to be granted on security of public property or taxes.

2. Any body corporate, municipal committee, or other persons legally entitled to the control or management of any Local or Municipal Fund, or legally entitled to impose any cess, rate, duty, or tax upon any persons in any local limits, may apply to the Local Government for a loan on the security of any such fund, cess, rate, duty or tax, or of any property vested in such body, committee, or persons for the purposes of such fund in the manner hereinafter mentioned.

Loans not to be effected except under the Act.

3. No such body corporate, municipal committee, or other persons shall borrow money upon or otherwise charge any such fund, cess, rate, duty, tax, or property otherwise than in the manner hereinafter mentioned; and any contract made for that purpose after the passing of this Act shall be void.

Power to Governor-General in Council to make rules.

4. The Governor-General in Council may make and, from time to time, amend and alter rules as to

(1) the

- (1) the nature of the fund, rates, cesses, duties, taxes, or property on the security of which loans may be made;
 - (2) the works for which loans may be made;
 - (3) the manner of making applications for loans;
 - (4) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;
 - (5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;
 - (6) the cases in which the Local Government may make loans without the previous sanction of the Governor-General in Council, and the cases in which such previous sanction must be obtained;
 - (7) the manner of recording and enforcing the conditions on which such loans are to be made;
 - (8) the manner and time of making loans;
 - (9) the inspection of works carried out by loans;
 - (10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of re-paying loans and of paying the interest thereon;
 - (11) the sum to be charged against the fund, cess, rate, duty, tax, or property which is to form the security for the loan, as costs in effecting the loan;
 - (12) the accounts to be kept in respect of loans;
 - (13) the attachment of securities and the manner of disposing of or collecting them,
- and as to all other matters incidental to carrying this Act into effect.
- All such rules shall be published in the *Gazette of India*.

5. If any loan made under this Act or the interest accrued thereupon is not repaid according to the conditions of the loan, the Local Government may attach the fund, rate, cess, tax, duty, or property on the security of which the loan was made: after such attachment, no person except an officer appointed by the Local Government shall in any way deal with the attached fund, rate, cess, tax, duty, or property: but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and charges due in respect thereof, and of all expenses involved by the attachment and subsequent proceedings: Attachment not to defeat prior charges legally made. Provided that no such attachment shall defeat or prejudice any debt for which the fund, cess, rate, tax, duty, or property attached was previously pledged in accordance with law, but all such prior charges shall be paid out of the proceeds of the fund, cess, rate, tax, duty, or property attached, before

any

any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

6. The Local Government, with the previous sanction of the Governor-General in Council, may authorize any body corporate, municipal committee, or other persons who might have borrowed money from Government under this Act upon any security, to borrow money from any other person upon such security; and if any such loan or the interest accrued be not duly repaid, the Local Government shall, upon the application of the lender, exercise for his benefit the same powers as if the loan had been made by Government under this Act.

7. The Governor-General in Council or the Local Government may declare that any person who, before the passing of this Act, has lent money to any such body corporate, municipal committee, or other persons as are mentioned in section two, shall be entitled to the remedy mentioned in section six for the recovery thereof, or of the interest due thereupon; and the Government of India may, in the case of any such loan granted by itself, direct the Local Government to proceed under section six in respect of any such loan.

8. The Local Government shall exercise the discretionary powers given by this Act, according to any direction in that behalf which it may receive in any particular case from the Governor-General in Council.

Local Governments to comply with special directions of the Government of India.

9. Nothing in this Act shall apply to any charitable or religious foundation, or be deemed to preclude the Municipalities of Calcutta, Madras, or Bombay, from exercising the borrowing powers conferred on them by any special law.

Saving of charitable or religious foundations and borrowing powers of certain municipalities from the operation of this Act.

ACT N^o. XXV. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th September 1871.)

An Act to Amend the Railway Act.

Preamble. WHEREAS it is expedient further to amend Act No. XVIII. of 1854 *(relating to Railways in India)*; It is hereby enacted as follows:—

Short title. 1. This Act may be called “The Railway Act Amendment Act, 1871:”

Construction. It shall be read with, and taken as part of, the said Act No. XVIII. of 1854 *(relating to Railways in India)* and Act No. XIII. of 1870 *(to apply the provisions of Act No. XVIII. of 1854 to Railways belonging to, or worked by, Government)*; and it shall come into force on the passing thereof.

Commencement.

Amendment of certain sections of Act XVIII. of 1854. 2. Act XVIII. of 1854 shall be read as if for sections one, eighteen, nineteen, twenty, twenty-one, twenty-six, and twenty-nine of the said Act, the following sections were substituted:—

“1. For the purposes of this Act, ‘Railway’ includes land within the fences or other boundary-marks prescribed under section twenty-one, and all lines of rail, sidings, or branches, worked over by locomotive engines for the purposes of, or in connexion with, a Railway; also all stations, offices, warehouses, fixed machinery and other works constructed, or being constructed for the purposes of, or in connexion with, a Railway.

No

No person shall enter any carriage used on any such Railway, for the purpose of travelling therein, without having first paid his fare, and obtained a ticket. Every person desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of any said Company duly authorized to examine the same, and shall deliver up such ticket upon demand, to any of the Company's servants duly authorized to collect tickets. Any person not producing or delivering up his ticket, as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled."

"XVIII. The word 'cattle' shall have the meaning attached to it in the Cattle Trespass Act, 1871, and the expression 'public road' in sections eleven and twenty-six of the said Act, shall be deemed to include a Railway.

Any person employed on a Railway may exercise the powers of seizure provided by the said section eleven."

"XIX. The owner or person in charge of any cattle trespassing or straying on any Railway provided with fences suitable for the exclusion of cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act."

"XX. Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle, otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or, if he cannot be identified, then the owner of the said cattle, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the said Act.

Fines imposed under this or the preceding section may be recovered in the manner provided by section twenty-five of the said Act."

"XXI. The Governor-General in Council, or the Local Government with the sanction of the Governor-General in Council, shall make rules, and may in like manner, from time to time, vary the same, for the provision of boundary-marks or fences for any Railway or any part thereof

thereof and for roads constructed in connexion therewith, and of gates or bars at places where any Railway crosses a road on the level, and for the employment of persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of sections nineteen and twenty, be deemed to be suitable for the exclusion of cattle."

"XXVI. Every Railway Company or, in the case of a Railway not managed by a Company, the officer for the time being entrusted with the control of such Railway, shall make general rules and regulations for the use, working, and general administration of the Railway, and may, in like manner, from time to time, vary the same.

All such general rules and regulations or variations thereof shall be submitted to the Governor-General in Council for sanction, and, when sanctioned, shall be published in the *Gazette of India*, and shall be otherwise notified to the public and to the officers and persons employed upon such Railway in such a manner as the Governor-General in Council from time to time directs.

Any such rule or regulation may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding fifty rupees, or, in default of payment of such fine, to imprisonment of either description for a term which may extend to two months.

The Governor-General in Council may at any time cancel any rule or regulation so sanctioned.

Any Justice of the Peace may try an European British subject for an offence under this section, and on conviction award a sentence within the limits thereby prescribed for such offence."

"XXIX. If any officer or person employed upon a Railway endangers the safety of any person by

- (1) disobeying any general rule or regulation sanctioned and notified in the manner prescribed by section twenty-six, or
 - (2) disobeying any rule or order not inconsistent with the general rules or regulations aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice, or
 - (3) by any rash or negligent act or omission,
- he shall be liable to imprisonment of either description for any term not exceeding three years, or to fine not exceeding five hundred rupees, or to both."

3. After

Addition of section XLIV.

3. After section XLIII. of the said Act, the following section shall be added :—

Power to declare authority by which powers of Local Governments are to be exercised in case of Railways.

“XLIV. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare what Government shall be deemed to be the Local Government in respect of the whole or any part of a Railway for the purposes of this Act.”

Amendment of part of section 3, Act XIII. of 1870.

4. Instead of so much of section three of Act XIII. of 1870 as begins with the words “but in sections seventeen” and ends with the section, the following shall be read :—

“But in sections seventeen, 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.”

ACT NO. XXX. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 30th October 1871.)

PANJAB CANAL AND DRAINAGE ACT, 1871.

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SCHEDULE.

An Act to regulate Irrigation, Navigation, and Drainage in the Panjab.

WHEREAS all lakes, rivers, streams, and other natural drainage-channels and collections of water in the Panjáb are the property of the Government, and whereas it is expedient to amend the law relating to irrigation, navigation, and drainage; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Panjáb Canal and Drainage Act, 1871."

It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Panjáb;

Commencement.

and it shall come into force on the passing thereof.

2. The Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of the said Schedule.

Repeal of Acts.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the context—

"Canal."

(1) "Canal" includes—

(a) all canals, channels, and reservoirs constructed, maintained, or controlled by Government for the storage or supply of water;

(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels, or reservoirs;

(c) all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates, and other erections, trees, crops, plantations, or other produce, occupied by or belonging to Government upon such lands;

(d) all water-courses as defined in the second clause of this section;

(e) any part of a river, stream, lake, or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II. of this Act:

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government; and all subsidiary works belonging to any such channel:

(3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part V. of this Act; but does not include works for the removal of sewage from towns;

(4) "Vessel"

"Vessel"

(4) "Vessel" includes boats, rafts, timber, and other floating bodies:

(5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner:

(6) "Deputy Commissioner" means the head Revenue Officer of a District, and includes any officer appointed under this Act to exercise all or any of the powers of a Deputy Commissioner:

(7) "Canal officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof:

A Superintending Canal officer means an officer exercising general control over a canal or portion of a canal:

A Divisional Canal officer means an officer exercising control over a division of a canal:

A Sub-Divisional Canal officer means an officer exercising control over a sub-division of a canal:

All such officers shall be respectively subject to the orders of such officers as the Local Government shall, from time to time, direct:

"District."

(8) "District" means a district as fixed for revenue purposes.

4. The Local Government may, from time to time, declare by notification in the Official Gazette the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

PART II.

PROCEDURE FOR APPLYING A WATER-SUPPLY TO PUBLIC PURPOSES, AND AWARDING COMPENSATION FOR LOSS ARISING THEREON.

5. Whenever it appears expedient to the Local Government that the water of any river, stream, lake, natural drainage-channel, or other collection of water should be applied by the Government for the purpose of any existing or projected canal or drainage-work,

such Government may, by notification in the official Gazette, declare that the said water will be so applied by the Government after a day to be named in the said notification not being earlier than three months from the date thereof.

6. At

6. At any time after the day so named, any Canal officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application of the said water.

Canal officer empowered to do anything necessary for carrying out such application.

7. As soon as is practicable after the publication of such notification, the Deputy Commissioner shall cause public notice to be given at convenient places, stating that the Government intends to apply the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

Notice to be published relative to claims for compensation.

Compensation when allowed.

8. Compensation may be allowed in respect of any of the following matters—

(1.) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the passing of this Act:

(2.) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, natural, or artificial, in use at the passing of this Act:

(3.) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation for the five years next before the passing of this Act:

(4.) Injury done in respect of any water-course or the use of any water to which any person is entitled under the law relating to the acquisition of ownership by possession.

But no compensation shall be given for any loss caused by—

- (a) stoppage or diminution of percolation, or floods;
- (b) alteration of climate or soil;
- (c) diminution of natural products;
- (d) stoppage of navigation, of the means of drifting timber, of watering cattle, or stoppage of fisheries;
- (e) displacement of labour, or deprivation of any accessory advantage or opportunity of profit other than those referred to in the first three clauses of this section.

None of the advantages referred to in the above clauses (a), (b), (c), (d), and (e) shall be deemed to be an easement.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value of the property in question occasioned by the application in respect of which compensation is demanded; and were the market-value

value of such property is not ascertainable, the amount of compensation to be awarded shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property occasioned by such application.

No right to any such supply of water as is referred to in clauses one, two, or three of this section in respect of a work or channel not in use at the passing of this Act shall hereafter be acquired as against the Government except by grant or prescription.

9. No claim for compensation for any such stoppage or diminution shall be entertained, unless it be made within one year next after such stoppage or diminution has commenced.

Limitation of claims.

10. The Deputy Commissioner shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given; and sections nine to twelve, fourteen and fifteen, eighteen to twenty-three, twenty-six to forty, fifty-one, fifty-seven, fifty-eight, and fifty-nine of Act No. X. of 1870 shall apply to such enquiries:

Enquiry by Deputy Commissioner into claims and amount of compensation, conformably to certain provisions of the Land-Acquisition Act, 1870.

Provided that instead of the last clause of the said section twenty-six the following shall be read: "The provisions of this section and of section eight of the Panjáb Canal and Drainage Act, 1871, 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."

11. Every tenant holding under an unexpired lease, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land on the ground that the interruption reduces the value of the holding.

Tenants may apply for abatement of rent on interruption of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of any such tenant of such land may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood before the abatement.

Tenants' rents may be enhanced on restoration of water-supply.

13. All sums of money payable for compensation under this Part shall be held to be due three months after the claim for such compensation is made in respect of such stoppage or diminution; and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months.

Compensation when payable.

PART III.

SURVEYS, CONSTRUCTION, AND MAINTENANCE OF WORKS, IMPOSITION,
AND RECOVERY OF CHARGES.*Surveys.*

Canal officer may enter
upon lands for survey.

14. Any Canal officer and any person acting under the
general or special order of a Canal officer,

may enter upon any lands adjacent to any canal, or through which any
canal is proposed to be made, and undertake surveys or levels thereon ;

and dig and bore into the sub-soil ;

and make and set up suitable land marks, level marks, and water-gauges ;

and do all other acts necessary for the proper prosecution of any enquiry
relating to any existing or projected canal under the charge of the said Canal
officer ;

and, where otherwise such enquiry cannot be completed, may cut down
and clear away any part of any standing crop, fence, or
jungle ;

and may also enter upon any land, building, or water-course on account of
which any water-rate is chargeable, for the purpose of inspect-
ing or regulating the use of the water supplied, or of measuring the lands irri-
gated thereby or chargeable with a water-rate, and of doing all things necessary
for the proper regulation and management of any such canal :

Provided that if such Canal officer or person proposes to enter into any build-
ing or enclosed court or garden attached to a dwelling house
not supplied with water flowing from any canal, he must
previously give the occupier of such building, court, or garden at least seven days'
notice in writing of his intention to do so.

In every case of entry under this section, such Canal officer shall, at the
time of such entry, tender compensation for any damage
which may be occasioned by any proceeding under this
section ; and in case of dispute as to the sufficiency of the amount so tendered,
he shall forthwith refer the same for decision by the Deputy Commissioner, and
such decision shall be final.

Entry on Lands in case of Accidents.

15. In case of any accident happening or being apprehended to a canal,
any Divisional Canal officer and any person acting under
his general or special orders may enter upon any lands
adjacent to such canal, and may execute all works which may be necessary for
the purpose of repairing or preventing such accident.

In every such case, such Canal officer or person shall tender compensation to
the proprietors or occupiers of the said lands for all injury
done to the same. If such tender is not accepted, the Canal
officer shall refer the matter to the Deputy Commissioner who shall proceed to
award compensation for the land as though the Local Government had directed
its occupation under section forty-three of Act No. X. of 1870.

Construction and Maintenance of Works.

16. Any person or persons desiring to use the water of any canal, may make
an application in writing to the Divisional or Sub-Divisional
Canal officer of the Division or Sub-Division of the canal,
from which the water-course is to be supplied, requesting such officer to construct
or improve a water-course at the cost of the applicant.

The application shall state the works to be undertaken, their approximate
estimated cost, or the amount which the applicant is willing to pay for the same, or
whether he engages to pay the actual cost as settled by the Divisional Canal
officer, and how the payment is to be made.

When the assent of the Superintending Canal officer is given to such appli-
cation, all the persons who have signed it shall be jointly and severally liable for
the cost of such works to the extent mentioned therein.

Any amount becoming due under the terms of such application, which is not
paid to the Divisional Canal officer, or the person authorized by him to receive
the same, on or before the date on which the payment becomes due, shall, on the
demand of such officer, be recoverable by the Deputy Commissioner as if it were
an arrear of land-revenue.

17. There shall be provided at the cost of Government suitable means of
crossing canals, constructed or maintained at the cost of
Government, at such places as the Local Government think
necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On an application in writing, signed by not less than five persons who are
owners of such lands, to the effect that suitable crossings have not been provided
on any canal, the Deputy Commissioner shall cause enquiry to be made into the
circumstances of the case, and if he thinks that the allegation is established, he
shall report his opinion thereon for the consideration of the Local Government,
and the Local Government shall cause such measures in reference thereto to be
taken as it thinks proper.

18. The

May require construction of works to pass water across roads, water-courses, and drainage-channels.

18. The Divisional Canal officer may issue an order to the person or persons using any water-course to construct suitable bridges, culverts, or other works for the passage of the water of such water-course across any public road, canal, or drainage-channel, which was in use before the said water-course was made, or to repair any such works.

Such order shall specify a reasonable period within which such construction or repairs shall be completed; and if, after the receipt of such order, the person to whom it is addressed does not, within the said period, construct or repair such works to the satisfaction of the said Canal officer, such officer may, with the previous approval of the Superintending Canal officer, himself construct or repair the same; and if the said person shall not, when required to do so, pay the cost of such construction or repairs as declared by the Divisional Canal officer, the amount shall, on the demand of the Divisional Canal officer, be recoverable from the said person by the Deputy Commissioner, as if it were an arrear of land-revenue.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal officer, on receiving an application from any person injured by such neglect or refusal, shall give a fortnight's notice to all the parties concerned that he is about to investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit. Such order shall be appealable to the Commissioner, whose order shall be final.

If such order direct the payment of any sum to be made within a specified period, such sum may, if not paid within such period, be recovered by the Deputy Commissioner from the person directed to pay the same, as if it were an arrear of land-revenue.

20. Whenever application is made to a Divisional Canal officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the person or persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

Power to grant passage of water through a water-course, and to prescribe the conditions of such grant of passage.

When

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal officer shall determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal officer, stating

Application for construction of a new water-course.

(1) that he has been unable to come to terms with the owners of the land through which such water-course will pass;

(2) that he desires the said Canal officer, in his behalf and at his cost, to do all things necessary for acquiring a right to so much of the said land as will be necessary for such water-course;

(3) that he is able to defray all costs involved in acquiring such land and constructing such water-course.

Procedure of Divisional Canal officer thereupon.

22. If the Divisional Canal officer considers

(1) that the construction of such water-course is expedient, and
(2) that the statements in the application are true,
he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he may consider likely to become due under section twenty-eight;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Deputy Commissioner of every district in which any part of such land is situate.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal officer, stating

Application for transfer of existing water-course.

(1) that he has been unable to come to terms with the owner of such water-course;

(2) that

(2) that he desires the said Canal officer, in his behalf and at his cost, to do all things necessary for the transfer to him of such water-course;

(3) that he is able to defray the cost of such transfer.

If the Divisional Canal officer considers

(a) that the said transfer is expedient,

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Deputy Commissioner of every district through which such water-course passes.

24. Within thirty days from the publication of a notice under either of the two next preceding sections, any person interested in the land or water-course in which the notice refers may apply to the Deputy Commissioner by petition, stating his objection to the construction or transfer for which application has been made. The Deputy Commissioner may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal officer of the place and time at which such inquiry will be held.

The Deputy Commissioner shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or if the Deputy Commissioner overrules the objections made, he shall give notice to the Divisional Canal officer to that effect, and shall proceed forthwith to place the said applicant in occupation of land marked out or of the water-course to be transferred, as the case may be.

26. If the Deputy Commissioner considers any objection taken as aforesaid to be valid, he shall inform the Divisional Canal officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice, and the Deputy Commissioner shall thereupon proceed as before provided.

27. If the Canal officer disagrees with the Deputy Commissioner, the matter shall be referred for decision to the Commissioner. Such decision shall be final, and the Deputy Commissioner, if he

is

is so directed by such decision, shall forthwith cause the said applicant to be placed in occupation of land so marked out, or of the water-course to be transferred, as the case may be.

28. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Deputy Commissioner such amount as the Deputy Commissioner shall determine to be due as compensation for the land or water-course so occupied or transferred, and for any damage occasioned by the marking out and occupation of such land, together with all expenses incidental to such occupation or transfer.

In determining the compensation to be made under this section, the Deputy Commissioner shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so wish, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Deputy Commissioner as if it were an arrear of land-revenue; and shall, when recovered, be paid by him to the person entitled to receive the same.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

First.—All works necessary for the passage across such water-course of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal officer.

Second.—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal officer within one year after occupation of the land is given to the applicant.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge.

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as shall be determined by the Deputy Commissioner when occupation is given.

Fifth.

Fifth.—If the right to occupy the land shall cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid by way of compensation for any injury done to the said land such amount and to such persons as the Deputy Commissioner shall determine.

Sixth.—The Deputy Commissioner may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Deputy Commissioner may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the persons to whom it is due.

If any of the rules or conditions prescribed by this section is not complied with, or

if any water-course constructed or transferred under this Act, is disused for three years continuously,

the right of the applicant, or of his representative in interest to occupy such land or water-course, shall cease absolutely.

30. The procedure, hereinbefore provided for the occupation of land for the construction of a water-course, shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Land for the extension of water-courses to be obtained under same procedure.

Conditions of the supply of water.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be issued by the Local Governments in respect thereof.

Rates and conditions for supplying water in absence of written contract.

32. Such contracts and such rules shall be consistent with the following conditions:

Conditions of such rules.
Canal officer may stop admission of water into water-courses in certain cases.

(a.) The Divisional Canal officer may not stop the supply of water to any water-course, or to any person except in the following cases:

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom.

(b.) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal by reason of any cause beyond the control of the Government, or of any repairs, alterations, or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation, which the Divisional Canal officer considers necessary; but the person who suffers such loss may claim such remission of the ordinary charges payable for the use of the water as shall be authorized by the Local Government:

Failure of supply in certain cases only to give claim to remission of water-rates.

(c.) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Deputy Commissioner for any loss arising from such interruption, and the Deputy Commissioner may award reasonable compensation:

Compensation for loss arising from interruption of water-supply when to be given.

(d.) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to endure only until that crop shall come to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to be for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

Continuance of supply.

(e.) Unless with the permission of the Superintending Canal officer, no person entitled to use the water of any canal or any work, building or land appertaining to any canal, shall sell or sublet or otherwise transfer his right to such use; but all contracts made between Government and the owner or occupier of any land or other property as to the supply of canal-water to such land or property, shall be transferable with such land or property, and shall be presumed to have been so transferred whenever a transfer of such land or property takes place:

Sale or sub-letting of canal-water prohibited.

Contracts for water transferable with the land.

(f.) No prescriptive right to the use of the water of a canal can be acquired by user or lapse of time, nor shall Government be bound to supply any person with water except in accordance with the terms of a specific contract.

No right to arise from user.

Liability

Liability to Charges.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person, by whose act or neglect such use has occurred, cannot be identified,

Liability when person using in unauthorized manner cannot be identified. the person on whose land such water has flowed, if such land has derived benefit therefrom,

and if he cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be jointly liable to the charges made for such use.

All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under this section shall be decided by the Divisional Canal officer, and his decision shall be final unless the Local Government shall otherwise direct.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal officer, the person, through whose act or neglect such water was suffered to run to waste, cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

35. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Water-rates on Irrigated Lands.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly. A rate so charged shall be called the "occupier's rate."

37. In addition to the occupier's rate, a rate to be called the "owner's rate," may be imposed on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

The introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of

of such land, as if a general revision of settlement had taken place under which the revenue payable in respect of such land had been increased.

38. The owner's rate shall not exceed one-half of the increase produced by the canal-irrigation in the net annual value of the land in respect of which it is imposed.

39. If such land is occupied by the owner, or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land have been increased by irrigation, such owner or occupier shall pay the owner's rate as well as the occupier's rate.

40. In the case of a tenant with a right of occupancy, the Local Government shall make rules for dividing the owner's rate between the landlord and such tenant proportionately to the extent of the beneficial interest of each.

41. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land have been increased by irrigation, or if, when the amount of rent was fixed, the land was irrigated from the canal, the owner shall pay the owner's rate.

42. No owner's rate shall be chargeable either on the owner or occupier of land assessed to pay land-revenue at canal-irrigation rates, unless a reduction has been made in such land-revenue equal to the amount by which it has been increased on account of the canal-irrigation of the land :

Provided that the owner's rate shall in no case, during the currency of an unexpired settlement, exceed the amount by which such land-revenue was so reduced.

43. A tenant not liable to enhancement of rent on the ground stated in section forty-one, who is charged with, and pays the owner's rate on land assessed at canal-irrigation rates, may deduct from his rent a sum equal to any sum which may, under the last section, be deducted from the revenue payable by the owner of the land.

Water-rate on Lands irrigable but not irrigated.

44. At any time not less than five years after the commencement of irrigation from any canal, the Local Government may order an enquiry to be made by an officer appointed for that purpose into the condition of such canal and the irrigation therefrom. If, upon the report of

of such officer, the Local Government is satisfied that the owners or occupiers of lands irrigable by such canal have not made reasonable use of the canal for purposes of irrigation, the Local Government may, with the previous sanction of the Governor-General in Council, issue a notification in the official Gazette declaring that the owners of such lands within local limits, to be specified in the notification, shall be charged with a special rate according to the provisions hereinafter contained.

Special rate how to be levied

45. Such special rate shall be levied yearly or half-yearly as the Local Government shall direct.

46. No such special rate shall exceed one rupee per half-year per acre of land in respect of which the rate is charged.

47. No such special rate shall be charged in respect of any land, if during the year or half-year (as the case may be) in respect to which such yearly or half-yearly rate might otherwise be claimed, water sufficient for the irrigation of such land has not been supplied when required by the owner or occupier thereof.

48. For the purposes of section forty-four, land shall be deemed irrigable by a canal when the following conditions are complied with in respect thereto:—

(a.)—That it is cultivated and not irrigated;

(b.)—That the net annual value of the produce of the land or the productive powers thereof will be increased by the irrigation thereof by canal water, after deducting all necessary charges incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation;

(c.)—That the Divisional Canal officer shall have tendered to the occupier or owner thereof a supply of canal-water sufficient for the irrigation thereof in the manner customary in the irrigation of land from a canal;

(d.)—That the Divisional Canal officer shall have offered to the said occupier or owner to construct the works necessary for conveying the water to the said land under section sixteen, or (if the said occupier or owner shall so prefer) to apply the provisions of sections twenty-one, twenty-two, and twenty-three for the construction or transfer of a water-course,

or shall have tendered an advance of money sufficient to provide for the construction of the said works; such advance to be re-payable in conformity with the rules for recovering advances made under the Act for the time being in force as to advances for improvements in land.

If

If any question shall arise whether the said conditions are complied with in respect of any land, it shall be determined in the same manner as suits relating to rent under the law for the time being in force.

49. The provisions of sections thirty-nine, forty, and forty-one shall apply to the payment of a special rate charged under section forty-four, as though such rate had been an owner's rate.

Recovery of special rate from occupier.

Water-rate on land benefited by percolation.

50. If it shall appear to the Divisional Canal officer that any cultivated land situate within three hundred yards of the edge of any artificial canal maintained by Government, receives by percolation from such canal an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation, he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for such a supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Recovery of charges.

51. Any sum, certified by the Divisional Canal officer to be lawfully due under this Act, which remains unpaid after the day on which the same becomes due, shall be recoverable by the Deputy Commissioner from the person liable for the same as though it were an arrear of land-revenue.

Canal dues may be recovered as land revenue on certificate of Canal officer.

52. The Divisional Canal officer or the Deputy Commissioner may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Powers to collect canal dues may be given to certain persons.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work, or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person shall make default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Deputy Commissioner under section fifty-one; and if such sum or any part of it be still due by such third party, then such sum or such part of it may be recovered in like manner by the Deputy Commissioner from such third party.

53. The Deputy Commissioner may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party in respect of any land or water, in such estate.

Lambardárs may be required to collect canal-dues.

PART

PART IV.

NAVIGATION.

54. Any vessel which enters or navigates any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the vessels therein, may be removed and detained by the Divisional Canal officer, or by any person duly authorized in that behalf.

Detainer of vessels violating rules. The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal officer shall, with the approval of the Superintending Canal officer, determine to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

55. A fine imposed under the provisions of this Act upon the owner of any vessel, or the servant or agent of such owner, or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine shall so direct, as though it were a charge due on account of such vessel.

Recovery of fines from persons navigating canals. 56. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal officer may seize and detain such vessel and the furniture thereof, until the charge due, together with all expenses and additional charges arising from such seizure and detention, are paid in full.

Power to seize cargo or goods, the charges due on which have not been paid. 57. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in canal-lands or warehouses, is not paid on demand to the person authorized to collect the same, the Divisional Canal officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, be paid in full.

Recovery of such charges on failure of payment. 58. Within a reasonable time after any such seizure, as is described in the two last preceding sections, the said Canal officer shall give notice to the owner or person in charge of the property seized that it or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice,

be

be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as near as may be, suffice to cover the amount due in respect of such vessel, cargo, or goods.

The residue of such furniture, cargo, or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the same.

59. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal or stored on or in canal lands or warehouses be left unclaimed for a period of two months, the Divisional Canal officer may take possession of the same. A Divisional officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel or cargo are not so claimed, he may at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale. The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges, and expenses incurred by the Canal officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal officer. If the Divisional Canal officer is doubtful to whom such property or proceeds of such sale should be made over, he may direct the property to be sold as aforesaid, and the proceeds of the sale to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART V.

DRAINAGE.

Removal of obstructions of Drainage-channels.

60. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream, or drainage-channel, such Government may, by notification in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction,

or

or may, within such limits, order the removal or other alteration of such obstruction. And thereupon, so much of the said river, stream, or drainage-channel as shall be comprised within such limits, shall be held to be a drainage-work as defined in this Act.

61. The Divisional Canal officer, or other person authorized by the Local Government in that behalf, may, after the publication of such notification, issue an order to the person causing or having control over any such obstruction to remove or alter the same.

If, within a time to be fixed in the order, such person shall not remove or alter such obstruction, the said Canal officer may himself remove or alter it; and if the person to whom the order was issued shall not, when called upon, pay the expenses involved in such removal or alteration, such expenses shall be recoverable from him or his representative as an arrear of land-revenue.

Improvement of drainage of Lands.

62. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river is required for any lands,

such Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

63. The persons authorized by Government to draw up such scheme may exercise all or any of the powers conferred on Canal officers by section fourteen of this Act.

64. An annual rate, in respect of such scheme may be charged on the owners of all lands which shall, in the manner hereinafter provided, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:—

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated cost of the annual maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :

(2.) In

(2.) In the case of agricultural land, one-half of the estimated increase to the annual value of the land due to the improvement to be effected by the works.

Such rate may be varied from time to time within such maximum by the said Government.

So far as any defect to be remedied is due to any canal, water-course, road, or other work or obstruction, constructed or caused by the Government or any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by the Government or such person.

Drainage-rates to be recovered as arrear of land-revenue.

65. Any such drainage-rate shall be recoverable as a water-rate.

66. Whenever, in pursuance of a notification made under section sixty, any obstruction is removed, or whenever any drainage-work is carried out under section sixty-two, all claims for compensation on account of any loss consequent on the removal of the said obstruction or construction of such work, may be made before the Deputy Commissioner, and he shall deal with the same in the manner provided in section ten.

Limitation of such claims.

67. No such claim shall be entertained unless it be made within one year next after the commencement of the loss complained of.

PART VI.

OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

68. For the purposes referred to in this Part, the word "labourer" includes persons who exercise any handicraft which shall be specified in rules to be made in that behalf by the Local Government.

Definition of "labourer" as used in this Part.

69. In any district in which a canal or drainage-work is projected, constructed, or maintained by Government, the Local Government may, if it thinks fit, direct the Deputy Commissioner to ascertain the proprietors, sub-proprietors, or farmers, whose villages or estates are or will be, in the judgment of the Deputy Commissioner, benefited by such canal or drainage-work, and to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors, or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Deputy Commissioner may, from time to time, add to or alter such list or any part thereof.

70. When

70. When it appears to a Divisional Canal officer duly authorized by the Local Government, that, unless some work is immediately executed, serious injury will happen to any canal or drainage-work, whereby the proper operation of such canal or drainage-work will be stopped, or so much interfered with as to prevent the established course of irrigation or drainage being continued, or to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to avoid such consequences,

the said officer may require any person named in such list to furnish so many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seems necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state the nature and locality of the work to be done, the number of labourers to be supplied by the person upon whom the requisition is made, the approximate time for which and the day on which the labourers will be required; and a copy thereof shall be immediately sent to the Superintending Canal officer for the information of the Local Government.

The rates to be paid to any such labourers, in excess of the highest rates paid in the neighbourhood for similar work, shall be fixed by the Local Government, and the payment shall extend to the whole period during which any such labourer is absent from his ordinary home.

The Local Government may direct that the provisions of this Part shall be applicable to any district or part of a district for the purpose of effecting necessary annual silt clearances.

71. When any requisition has been made on any such person, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART VII.

JURISDICTION.

Decision of differences regarding Water-courses.

72. Unless where otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts, but no such Court shall in any case pass an order

Properly authorized Canal officer may make requisitions on proprietors or others to supply labourers in case of anticipated serious injury to canals or drainage-works.

Labourers liable to supply and continue their labour.

Civil Courts empowered to try claims against Government.

order as to the supply of canal water to any crop sown or growing at the time of such order.

73. Whenever a difference arises between any persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance of a water-course, any such person may present an application in writing to the Divisional Canal officer stating the matter in dispute; and such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And after such enquiry the said officer shall pass his order thereon, unless he transfers the matter to the Deputy Commissioner, who shall thereupon enquire into and pass his order on the said matter, such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

74. Any officer empowered under this Act to conduct any inquiry may exercise all such powers, connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.

PART VIII.

OFFENCES AND PENALTIES.

Offences under Act, and penalties.

75. Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

- (1) injures, alters, enlarges, or obstructs any canal or drainage-work;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over, or under, any canal or drainage-work;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, injure, or render less useful any canal or drainage-work;
- (4) being responsible for the maintenance of or using a water-course, neglects to take proper precautions for the prevention of waste of the water in such water-course, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) causes any vessel to enter or navigate any canal contrary to the authorized rules laid down for entering or navigating such canal;
- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8.) being

- (8) being liable to furnish labourers under Part VI. fails, without reasonable cause, to supply or to assist in supplying the labourers required of him ;
- (9) being a labourer liable to supply his labour under Part VI., neglects, without reasonable cause, so to supply, and to continue to supply, his labour ;
- (10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant ;
- (11) violates any rule made under this Act for breach whereof a penalty may be incurred ;

shall be liable, on conviction before any Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

76. Nothing contained herein shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

77. Whenever any person is fined for an offence under this Act, the Magistrate may direct that any part of such fine may be paid to the person who has suffered by such offence by way of compensation.

78. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging to such canal or drainage-work, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest Police station, to be dealt with according to law, any person who, within his view, commits any of the following offences :—

- (1) wilfully injures or obstructs any canal or drainage-work ;
- (2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, injure, or render less useful any canal or drainage-work ;
- (3) passes or causes animals or vehicles to pass on or across any of the works, banks, or channels of a canal or drainage-work, contrary to authorized rules, after he has been desired to desist therefrom.

Rules to be made.

79. The Local Government may, with the previous sanction of the Governor-General in Council, make, and may, with the like sanction, from time to time, alter or cancel rules to regulate the following matters :—

- (1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;
- (2.) the

- (2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;
- (3) the persons by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done ;
- (4) the amount of any charge made under the Act ;
- (5) and generally to carry out the provisions of this Act.

Such rules, alterations, or cancelments shall, when published in the official Gazette, have the force of law.

SCHEDULE.

Number and Year.	Title.	Extent of Repeal.
VII. of 1845	... An Act for regulating the levy of Water Rent, Tolls, and Dues on certain canals for irrigation and navigation constructed by Government in the North-Western Provinces, and for the protection of the said canals from injury.	The whole so far as it affects the Panjáb.
XII. of 1866	... An Act to provide for the compulsory taking of rights to form and maintain private water-courses from Public Works of irrigation.	The whole so far as it affects the Panjáb.

ACT N^o. XXXII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 30th October 1871.)

ODDH CIVIL COURTS' ACT, 1871.

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An Act to consolidate and amend the law relating to the Civil Courts in Oudh.

WHEREAS it is expedient to consolidate and amend the law relating to Civil

Preamble. Courts in Oudh;

It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

Short title.

1. This Act may be called "The Oudh, Civil Courts' Act, 1871:"

Extent of Act.

It applies to all Civil Courts in Oudh, except Small Cause Courts;

Commencement.

and shall come into force on the date of the passing thereof.

But all suits, appeals, applications, or proceedings instituted previous to such date shall be heard and disposed of by the Courts in which they were instituted.

2. In

Interpretation-clause.

2. In this Act—

'Divisions.'

"Division" means the local jurisdiction of the Court of the Commissioner.

3. The Acts and orders mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of such schedule, except as to the suits, appeals, applications, or proceedings mentioned in section one.

CHAPTER II.—*Constitution of Civil Courts.*

Grades of Courts in Oudh.

4. There shall be five grades of Courts in Oudh, namely:—

- (1) The Court of the Tahsildár;
- (2) The Court of the Assistant Commissioner or Extra Assistant Commissioner;
- (3) The Court of the Deputy Commissioner or of the Civil Judge of Lucknow;
- (4) The Court of the Commissioner;
- (5) The Court of the Judicial Commissioner.

5. The Governor-General in Council shall fix, and may from time to time vary, the number of Courts of each grade to be established under this Act.

Government of India to fix number of Courts of each grade.

6. The Judicial Commissioner, Commissioners, Deputy Commissioners, Civil Judge of Lucknow, and Assistant Commissioners shall be appointed by the Governor-General in Council.

Appointment of officers under Act.

The Extra Assistant Commissioners and Tahsildárs shall be appointed by the Chief Commissioner.

7. All existing Courts corresponding to the grades mentioned in section four and the presiding officers thereof, shall be deemed to have been respectively established and appointed under this Act.

Conformation of existing Courts.

8. The general control over all the Courts of the first and second grades in any District is vested in the Deputy Commissioner, and the like control over the said Courts and of the Courts of the third grade in any Division is vested in the Commissioner subject to the superintendence of the Judicial Commissioner.

Court under Act to be deemed a Civil Court under Code of Civil Procedure.

9. Every Court under this Act shall—

Seal to be used by such Court.

- (1) be a "Civil Court" within the meaning of the Code of Civil Procedure;
- (2) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner; and
- (3) be

Place for holding of Court.

(3) be held at such place or places as may be from time to time directed by the Chief Commissioner.

CHAPTER III.—*Jurisdiction.*

10. The Chief Commissioner shall, with the previous sanction of the Governor-General in Council, fix, and may from time to time vary, the local limits of the jurisdiction of any Civil Court under this Act.

Chief Commissioner to fix local jurisdiction of any Civil Court.

Existing local jurisdiction preserved.

The present local limits of the jurisdiction of every Civil Court shall be deemed to be fixed under this Act.

Original Jurisdiction.

11. The Courts mentioned in the first column of the subjoined table shall ordinarily have jurisdiction in the adjudication of suits of every description arising within their local jurisdiction to the extent specified in the second column thereof: Provided that no suit cognizable by a Court of Small Causes shall within the local limits of the jurisdiction of any such Court be heard or determined by any other Court.

Extent of ordinary jurisdiction.

- | | |
|--|---|
| (1.) The Tahsildár. | (1.) When the amount or value of the subject-matter of the suit does not exceed one hundred rupees. |
| (2.) The Assistant Commissioner or Extra Assistant Commissioner. | (2.) When such amount or value does not exceed five hundred rupees. |
| (3.) The Deputy Commissioner or the Civil Judge of Lucknow. | (3.) Whatever be the amount or value of the subject-matter of the suit. |

But the Chief Commissioner may invest any Tahsildár with power to try suits of which the amount or value of the subject-matter does not exceed five hundred rupees, and may also empower any Assistant Commissioner or Extra Assistant Commissioner to try suits of which the amount or value of the subject-matter does not exceed five thousand rupees.

Proviso.

All orders of the Chief Commissioner investing any Tahsildár, Assistant Commissioner, or Extra Assistant Commissioner with such extended jurisdiction shall be duly notified in the local official Gazette, and shall thereupon have the same force and effect as if the said jurisdiction had been expressly conferred by this Act upon the Courts presided over by the officers so invested.

12. The Court of the Deputy Commissioner shall be deemed to be the principal Civil Court of original jurisdiction in any district, and he may direct the business in the Courts of the first and second grades to be distributed among such Courts in such way as he shall think fit:

Jurisdiction and powers of Deputy Commissioners.

fit:

fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

13. The 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 Court competent in respect of the value or amount of the suit to try the same.

Power of Commissioner to withdraw suit instituted in any subordinate Court, try it himself, or refer it for trial to any other Court of competent jurisdiction.

14. Section twelve of Act VIII. of 1859 shall be read, as regards the trial of suits in Oudh, subject to the following modification, namely:

Modification of section twelve, Act VIII. of 1859.

(1.) When the suit is for immoveable property situate within the local jurisdiction of different District Courts included in the same division, the application for authority to proceed with the suit shall be made to the Commissioner of such division.

(2.) When the said Courts belong to different divisions, the application shall be made to the Commissioner of the division in which the district, wherein the suit was instituted, is included.

Appellate Jurisdiction.

15. (1.)—Appeals from the decrees and orders in original suits and proceedings of the Courts of the first and second grades shall, when such appeals are allowed by law, ordinarily lie to the Deputy Commissioner. But where the amount or value of the subject-matter of any such suit or proceeding exceeds one thousand rupees, the appeal shall lie to the Commissioner.

(2.)—Appeals from such decrees and orders of the Court of the Deputy Commissioner, when such appeals are allowed by law, shall lie to the Commissioner.

(3.)—An appeal from any such decree or order passed by the Commissioner shall, when such appeal is allowed by law, lie to the Judicial Commissioner, whose Court shall be deemed to be the highest Court of appeal.

Power of Commissioner to withdraw appeal instituted in Deputy Commissioner's Court, try it himself, or refer it for trial to any other Deputy Commissioner's Court.

16. The Commissioner may 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.

17. If the decision of a Deputy Commissioner or a 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

When Judicial Commissioner may receive second appeal.

the

the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

Decision of first Appellate Court confirming decision of Court of first instance, to be final.

18. If the Court of first appeal confirms the decision of the Court of first instance, such decision shall be final:

Provided that where in the trial of any appeal such appellate Court entertains any doubt in regard to a question of law or usage having the force of law, or as to the construction of a document affecting the merits of the decision, the Court may, either of its own motion or on the application of any of the parties to the case, draw up a statement of the case, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner.

Reference to Judicial Commissioner on points of law.

19. The Judicial Commissioner, after hearing and considering the case so referred, shall send a copy of his judgment to the Court by which the reference was made, and such Court shall, on the receipt of the copy, proceed to dispose of the case in conformity with the decision of the Judicial Commissioner.

20. Costs, if any, consequent on the reference of the case to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

21. 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, and in all other cases within the periods fixed by the law of limitation relating to the presentation of appeals for the time being in force.

Appointment of Extra Judicial Commissioner for the disposal of appeals.

22. Whenever the state of business in the Court of the Judicial Commissioner is such that he cannot dispose of the same with reasonable dispatch, he may cause a list of the appeals pending in his Court be prepared and sent to the Chief Commissioner, and such Chief Commissioner, with the sanction of the Governor-General in Council, may, if he think fit, appoint a Commissioner to be an additional Judicial Commissioner for the disposal of such appeals or any of them.

Judicial Commissioner to refer doubtful cases of appeal to High Court, North-Western Provinces.

23. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal under this Act, he may make a reference to the High Court of the North-Western Provinces of the Presidency of Bengal, and shall transmit the

record

record of the case referred, and all the proceedings connected therewith, to the said Court.

24. The High Court shall, with as little delay as possible, proceed to try the case referred as if it were an appeal instituted in such Court, and shall send a copy of its judgment to the Judicial Commissioner, who shall dispose of the case in conformity therewith.

25. The provisions of section twenty, as to the adjustment of costs, shall apply to cases referred under the last preceding section.

Special Jurisdiction.

26. In any district in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the sanction of the Governor-General in Council, may invest any officer making or controlling such settlement, with all or any of the powers of Civil Courts of the first, second, third, or fourth grades, for the purpose of trying suits and appeals relating to land assessed to revenue, or the rent, revenue or produce, of such land, arising in such district.

Any district in which such officers have been so invested shall, for the purposes of this section, be deemed to be under settlement until such time as the Governor-General in Council shall otherwise direct; and the jurisdiction of the Ordinary Civil Courts of those grades shall be excluded in respect of such suits and appeals during the period:

Provided that the Chief Commissioner may direct that any cases pending before the settlement officers invested with the powers mentioned in the former part of this section shall be transferred to the Ordinary Civil Courts of the district if the state of business in his opinion requires it.

27. If before any officer so invested a suit, relating both to such land and other property, be instituted, the said officer shall make a reference regarding the disposal of such suit to the Commissioner of the division in which the district, wherein the suit was instituted, is included, who shall determine by what court the suit shall be tried.

28. No suit relating to any tenure which shall be cognizable by the Court of any settlement officer under this Act, shall be barred under the law for the time being in force relating to the limitation of suits, if the cause of action arose on or after the thirteenth day of February 1844.

29. When

29. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

30. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February 1865: Provided that if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

CHAPTER. IV.—*Miscellaneous.*

31. 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 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 prevailing in the province of Oudh.

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.

32. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party 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 officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by section six, Act VIII. of 1859.

In the event of appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal

personal interest, he shall report the fact to the Chief Commissioner who, with the sanction of the Governor-General in Council, shall appoint a Commissioner to be an additional Judicial Commissioner for the disposal of the case.

Power of Governor-General in Council to suspend or remove any presiding officer of a Court.

33. 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 of the second, third, or fourth grades may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor-General in Council.

The presiding officer of any Court of the first grade may, for any misconduct, be suspended or removed by the Chief Commissioner.

34. The ministerial officers of the Courts of the first and second grades shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

Appointment of ministerial officers of Courts of first and second grades.

35. Every Court of the first and second grades may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. The Deputy Commissioner, subject only to the general control of the Commissioner, may on appeal or otherwise reverse or modify every 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 Court subordinate to him.

Power to fine, suspend, or remove such ministerial officers.

36. The Civil Judge of Lucknow, Deputy Commissioner, Commissioner, and Judicial Commissioner, shall appoint the ministerial officers of their respective Courts, provided that the appointment by the Civil Judge of Lucknow or a Deputy Commissioner or Commissioner of a ministerial officer whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

Civil Judge of Lucknow, Deputy Commissioner, Commissioner, or Judicial Commissioner to appoint ministerial officers of their respective Courts.

37. The Civil Judge of Lucknow, Deputy Commissioner, Commissioner, and Judicial Commissioner, may remove or suspend the ministerial officers of their respective Courts, or fine them in an amount not exceeding one month's salary, but every such removal or suspension made by a Commissioner, Deputy Commissioner, or the Civil Judge of Lucknow shall be subject to the general control of the Judicial Commissioner.

Judicial Commissioner to control such removal or suspension made by Commissioner, Civil Judge of Lucknow, or Deputy Commissioner.

38. Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

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39. Nothing

Saving of power of Chief Commissioner to control appointments and removals of ministerial officers under Act.

39. Nothing in this Chapter shall be deemed to bar the general control of the Chief Commissioner over all appointments and removals of ministerial officers under this Act.

40. Act No. XIX. of 1868 shall be construed as if, for "Financial Commissioner" in sections eighty-four, ninety-three, ninety-four, and ninety-eight, the words "Judicial Commissioner" and in section ninety-nine the words "Chief Commissioner" were substituted.

Amendment of Act XIX. of 1868.

SCHEDULE.

ACTS.

No. and year.	TITLE.	Extent of repeal.
Act VIII. of 1859 ...	An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.	Sections 332, 372, 373, 374, and 375, so far as they relate to Oudh.
Act XIV. of 1865 ...	An Act to define the jurisdiction of the Courts of Civil Jurisdiction in the Central Provinces.	The whole, so far as it relates to Oudh.
Act XVI. of 1865 ...	An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oudh in suits relating to land, and to enlarge the period of limitation in such suits.	The whole.
Act XIII. of 1866 ...	An Act to exempt certain suits in Oudh from the operation of the rules of limitation in force in that Province.	The whole.
Act XXXVII. of 1867.	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh, and the Jhānsī Division to distribute the business in subordinate Courts.	So far as it relates to Oudh.
Act XI. of 1871. ...	An Act to abolish the Financial Commissionership of Oudh.	The whole.

GOVERNMENT ORDERS.

No. 12, dated 4th February 1856.	}	.....	{ So much as prescribes the constitution and jurisdiction of the Civil Courts in Oudh.
No. 3502, dated 6th October 1858.			
Notification dated 6th August 1861.			
Notification dated 3rd April 1871, 724 G			
			1st Proviso.
			The whole.

ACT N^o. XXXIII. OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th November 1871.)

THE PANJAB LAND REVENUE ACT, 1871.

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An Act to consolidate and define the law relating to the settlement and collection of Land-revenue in the Panjáb and for other purposes.

WHEREAS the Government of India is by law entitled to a proportion of the produce of the land of the Panjáb to be from time to time fixed by itself; and whereas it is expedient to consolidate and define the law relating to the settlement and collection thereof, and to the duties of Revenue officers in the Panjáb; It is enacted as follows:—

PRELIMINARY

Short title. 1. This Act may be called "The Panjáb Land-Revenue Act, 1871;"

Local extent. It extends to the territories subject to the Lieutenant-Governor of the Panjáb, but not so as to affect the validity of any Regulation made by the Governor-General under the provisions of 33 Vic., Cap. 3, for any portion of the territories to which this Act extends;

Commencement. And it shall come into force on the first day of January 1872.

'Estate' defined. For the purposes of this Act "Estate" means a village or other local area with which a separate settlement is made.

CHAPTER I.

REVENUE OFFICERS.

Grades of Revenue Officers. 2. There shall be in the Panjáb the following grades of Revenue Officers:—

- (1) the Financial Commissioner, who shall, subject to the Lieutenant-Governor, be the chief controlling revenue authority in the Panjáb;
- (2) Commissioners, each of whom shall, subject to the control of the Financial Commissioner, be the chief controlling revenue authority within a division;
- (3) Deputy Commissioners, each of whom shall, subject to the control of the Commissioner, be the chief executive revenue authority in a district;
- (4) Tahsildars, each of whom shall, subject to the control of the Deputy Commissioner, be the chief executive revenue authority in a tahsil or sub-district.

3. The Financial Commissioner shall be appointed and may be removed by the Local Government with the previous sanction of the Governor-General in Council.

Appointment and removal of Commissioners, Deputy Commissioners, and Tahsildars. 4. Commissioners and Deputy Commissioners shall be appointed and may be removed by the Local Government.

Tahsildárs

Tahsildars shall be appointed and may be removed by the Deputy Commissioner with the previous sanction of the Financial Commissioner.

Assistant Commissioners, &c., may be invested with powers of Deputy Commissioner.
5. The Local Government may invest any Assistant Commissioner or Extra Assistant Commissioner with all or any of the powers hereinafter conferred upon Deputy Commissioners.

The Deputy Commissioner may distribute amongst the Assistant Commissioners, Extra Assistant Commissioners, and other subordinate officers of his district, as he thinks proper, such revenue duties as, under this or any other Act in force for the time being, they are authorized to perform.

Rules as to village officers.
6. The Local Government shall make rules as to the appointment, duties, payment, and removal of Lambardars or Village-Headmen, Patwaris or Village Accountants, Kanungos or Superintendents of Village Accountants, such regard as the Local Government thinks fit being had to custom or descent.

Where by any such rule the appointment of Patwaris is directed to be made by the landowners of a village, the neglect or refusal of such landowners to make any such appointment within a prescribed time shall be punishable with such fine as the Local Government directs: and such fine shall be recoverable as an arrear of land-revenue.

CHAPTER II.

OF SETTLEMENTS.

Settlement in progress.
7. Whenever the amount of revenue to be paid in a district or other local area is being assessed or re-assessed, or whenever the record of rights hereinafter described is being either made or revised under the provisions hereinafter contained, a settlement is said to be in progress; a district or other local area in which a settlement is in progress is said to be under settlement.

Person settled with.
8. Whenever any person or persons are permitted to engage with the Government for the payment of revenue due in respect of any land, they are said to be settled with, or a settlement is said to be made with them in respect of that land.

Instructions for settlement to state principle of assessment.
9. The Local Government shall, with the previous sanction of the Governor-General in Council, give written instructions to the officer in charge of a settlement, stating the principle on which the revenue in such settlement is to be assessed. No Court of justice shall

b9

be entitled, under any circumstances, to require the production, or shall permit evidence to be given of the contents, of such instructions.

Three kinds of settlements.

10. Settlements may be of the following kinds:—

(1) a summary settlement is a provisional settlement, made pending a first regular settlement: the declaration of the Local Government that a settlement was summary shall be conclusive proof that it was so;

(2) a first regular settlement is a settlement in which the revenue is assessed, and a record of rights is, for the first time, formed;

(3) a re-settlement is a settlement, subsequent to a first regular settlement, in which either the revenue is re-assessed, or the record of rights is revised, or in which both these processes are conducted.

Notification of settlement.
11. Whenever a district or other local area is to be put under settlement, the Local Government shall, with the previous sanction of the Governor-General in Council, issue a notification of settlement.

Such notification shall—

(1) define the local area which is to be put under settlement;

(2) mention such of the officers by whom it is to be made as to the Local Government seems fit; and, in every case in which judicial powers are conferred, shall specify the powers so conferred: the officers so mentioned shall be called Settlement Officers, and the principal officer so mentioned shall be the officer in charge of the settlement;

(3) declare whether the settlement is a summary settlement, a first regular settlement, or a re-settlement; and, in the case of a re-settlement, whether there is to be a re-assessment of revenue, or revision of the record of rights, or both;

(4) declare whether surveys and plans are to be made, and, in the case of a first regular settlement, whether the boundaries of villages and estates are to be adjusted.

Power to amend notification.
12. The Local Government may, with the previous sanction of the Governor-General in Council, from time to time amend the settlement notification, and may prescribe the order in which the Settlement Officers shall discharge their duties, or alter the duties to be discharged by them.

Local Government may remove Settlement Officers and appoint new ones.
13. The Local Government may remove any of the Settlement Officers mentioned in the notification, and appoint others to succeed them, or to act for them during their temporary absence.

14. Regarding

Of what documents records of rights are to consist.

14. Records of rights hereafter to be made shall consist of the following documents:—

(1) maps and measurement papers, showing the boundaries of the village or place in respect of which the settlement is to be made, and the fields into which it is divided:

(2) a statement of the occupiers and owners of the fields specified in the said maps, and of the lands occupied or owned by them, and of the terms on which they are so owned or occupied:

(3) a tender on behalf of the person or persons settled with to engage for the payment of the revenue during the term for which the settlement is made:

(4) a statement of the shares or holdings of the different persons settled with, and of the amount of revenue for which, as between each other, they are to be responsible; and a statement of persons holding lands free of revenue and of the lands so held:

(5) a statement of the terms on which the persons settled with agree to pay the revenue assessed, and of the customs of the village or place in respect of which the settlement is made; such statement shall be so arranged as to distinguish such customs as regulate—

(a) the relations of the persons settled with to the Government:

(b) the relations of the persons settled with towards one another:

(c) the relations of the persons settled with to other persons:

(6) an abstract of the proceedings at the settlement, which shall contain a statement of all judicial decisions passed by the Settlement Officers in the course of the settlement.

15. The Local Government shall from time to time prescribe the form, language, and contents of each of the documents mentioned in the last preceding section, and the manner in which each shall be prepared, signed, and attested; and may direct, either generally or in any particular case, other documents besides those specified to be contained in the record of rights.

16. Judicial decisions passed by Settlement Officers shall be proved in the same manner, and shall have, when proved, the same effect as judgments delivered by Civil Courts.

Entries in the record of rights made or authenticated at a regular settlement or re-settlement in the manner prescribed by the Local Government shall be presumed to be true.

17. A settlement

17. A settlement notified under section eleven shall be deemed to be in progress until sanctioned by the Local Government. Such sanction may be either

(1) of the record of rights, or

(2) of the assessment, or

(3) of the record of rights and of the assessment.

The Local Government, on the report of the Financial Commissioner that the operations of the settlement are complete, may, previous to sanction, direct that the record of rights be handed over to the Deputy Commissioner of the district, and that the special jurisdiction conferred on any officer under section twenty-one or twenty-two of the Panjáb Courts Act, 1865, shall cease, and that the suits pending in the Courts of any such officers, or appeals from, or applications for the review of, the judgments of such officers, be transferred to the ordinary Civil Courts, or to the Court of any officer appointed by the Local Government for the purpose of disposing of such suits, appeals, or applications.

18. The assessment or record of rights may be revised if the Local Government so directs, at any time before they are sanctioned respectively.

19. When a record of rights made in any district or other local area at a regular settlement has been sanctioned, it shall not be revised until such district or local area is again put under settlement, nor shall it at such subsequent settlement be revised otherwise than by

(a) making entries in accordance with facts which have occurred since the date of the abstract specified in clause six of section fourteen:

(b) making such alterations of the record as are agreed to by all the parties interested therein, or are supported by a judicial decision;

(c) making new maps, surveys, or measurement, when the Local Government so directs, and amending such of the documents of the record of rights as depend thereon, so as to accord with such new maps, surveys, or measurement; but not so as to alter any statement as to the share or holding or status of any person, except in the cases mentioned in clauses (a) and (b) of this section.

20. Any person who considers that he is aggrieved as to any right of which he is in possession, by any entry made in a record of rights, may, after such record of rights has been sanctioned, bring a suit in a Civil Court for a declaration that such entry is incorrect, and that a different entry ought to have been made. The Government and every person interested in such entry shall be made defendants in every such suit.

A decree

A decree obtained in such suit shall be of the same effect as if the entry
Effect of decree. which it declares to be correct had been made originally in
 the record of rights.

The provisions of this section shall not apply to any entry having the force
 of an agreement under section two of the Panjáb Tenancy Act, 1868, as amended
 by this Act.

21. Instead of the last clause of section two of the Panjáb Tenancy Act, 1868,
Amendment of section two, Act XXVIII. of 1868. the following shall be read: "All entries in such record,
 made previously to the passing of the Panjáb Land-Revenue
 Act, 1872, in respect of matters comprised in Chapters III., IV., V., and VI. of this
 Act, shall, when attested by the proper officer, be deemed to be agreements within
 the meaning of this section."

22. Any Revenue Officer, and, in a district under settlement, any Settle-
Erection and repair of boundary-marks. ment Officer, may, by a notice in writing, require the persons
 liable for the revenue of any village, estate, or field to erect
 or repair boundary-marks sufficient for defining the limits of such village, estate, or
 field; and if such boundary-marks are not so constructed or repaired within a
 period to be specified in the notice, such Revenue or Settlement Officer may cause
 boundary-marks to be so erected or repaired; and the cost of such erection or
 repair shall be recoverable from the persons liable for the revenue of such village,
 estate, or field, as if it were an arrear of land-revenue due in respect of such village,
 estate, or field.

23. Settlement Officers may issue commissions to take evidence, or for local
Power to issue commis- sions to take evidence, for local investigations, and to refer to arbitration. investigations, according to the provisions of the Code of
 Civil Procedure, and may, if empowered by the Local Govern-
 ment, refer any matter in dispute to arbitrators, whether with
 or without the consent of parties. The arbitrators to be appointed under this
 section shall exercise such powers, proceed in such manner, and their finding
 shall be liable to such appeal, as the Local Government directs.

24. Settlement Officers shall have the same power to compel the attendance
Power to compel attend- ance of witnesses. of all persons whom they believe to be able give them infor-
 mation as to the matters into which they are empowered to
 inquire under the notification mentioned in section eleven, as the Judges of Civil
 Courts have to procure the attendance of witnesses under the Code of Civil Pro-
 cedure; and all persons who appear before such officers are bound to state the
 truth upon all such matters, and to produce such documents and other things as
 may be required of them.

25. Settlement

25. Settlement Officers and the servants and workmen employed by them,
Power to enter lands to make surveys, &c. shall have the powers specified in the Land Acquisition Act
 (X. of 1870), section four, for the purpose of making such
 plans and surveys as are directed by the said notification, and of collecting such
 information as to the quality and produce of the land as may be necessary to
 enable them to assess the revenue to be paid thereon.

26. In regular settlements to be made hereafter, unless it is otherwise
What to be deemed to belong to owners of estates. expressly provided in the records of the settlement, all
 forests, unclaimed, unoccupied, deserted or waste lands,
 quarries, spontaneous produce, and other accessory interests in land, shall be
 deemed to belong to the owners of the estate within the boundaries of which they
 are at such settlement included.

27. When the waste land belonging to or adjoining an estate is so extensive
Settlement of waste lands in excess. as, in the opinion of the Deputy Commissioner or officer in
 charge of a settlement, to exceed the requirements of the
 owners of such estate with reference to pasturage or other useful purpose, such
 Deputy Commissioner or officer may at any time, with the sanction of the Finan-
 cial Commissioner, make a separate settlement of the waste land which he con-
 siders to be so in excess, and shall offer such waste land at such assessment, for
 such term and on such conditions as he thinks fit to the owners of the estate to
 which it belongs, and if they refuse such offer, to the owners of any estate to which
 such waste land adjoins; and if they refuse such offer, to any other person:

Provided that, where the owners of the estate to which such waste land be-
Allowance to owners re- fusing such settlement. longs refuse such offer, the Deputy Commissioner shall assign
 to them an annual allowance not less than five and not more
 than ten per cent. on the nett proceeds realized by Government from such waste
 lands.

28. In regular settlements made before the passing of this Act, unless it
Presumption of ownership of forests, waste lands, &c., in regular settlements made before passing of Act. is otherwise expressly provided in the records of such settle-
 ment, all forests, unclaimed, unoccupied, deserted or waste-
 lands, quarries, spontaneous produce, and other accessory
 interests in land, whether included within the boundaries of an estate or not, shall
 be presumed to belong to the Government.

This presumption may be defeated by showing, from the assessment of the
 estate, that any such forest, unclaimed, unoccupied, deserted or waste land, quarry,
 spontaneous produce, or other accessory interest was taken into account in such
 assessment; in which case anything which was so taken into account shall be
 presumed to belong to the owners of the estate so assessed.

The

The question whether any such forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce, or other accessory interests were or were not taken into consideration in determining the amount of revenue to be assessed, shall be determined by a consideration of the reports made by the Settlement Officer to Government at the time of settlement, or, if the report is silent, by a comparison between the rates assessed in villages in which such forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce, or other accessory interests did, and villages or similar character in which they did not, exist.

29. Mines of metal or coal and gold-washings shall in every case be deemed to be the property of Government. But if Government works or causes to be worked any such mine, compensation for damage to the surface of the soil shall be made to the owner of such surface.

Such compensation may be claimed, and shall be ascertained and awarded, in accordance with the provisions of Act X. of 1870.

CHAPTER III.

ENGAGEMENTS FOR PAYMENT OF LAND-REVENUE.

30. When the land in respect of which the settlement is to be made is owned by one person, the settlement shall be offered to that person.

When such land is owned by several persons, it shall be offered to such persons through their representatives.

When there are two classes of owners, superior and inferior, the settlement may be offered to either class, according as the Financial Commissioner directs.

If one of such classes refuses the offer of the settlement, it shall be offered to the other class.

31. When the officer in charge of the settlement has satisfied himself as to the amount at which an estate should be assessed, he shall submit a report of such amount and of the grounds on which it is computed to the Commissioner; and the Commissioner shall forward such report, together with his own opinion thereon, to the Financial Commissioner.

32. The Financial Commissioner shall give such instructions as he thinks fit to the officer in charge of the settlement as to the terms on which the persons with whom the settlement is to be made shall be permitted to offer to engage for the revenue, and such

such officer shall inform such persons that they may make an offer on such terms, but that Government is not bound to accept such offer.

33. If the persons with whom the settlement is to be made agree to make such offer, they shall become liable, from the date of such agreement, to the payment of the amount of revenue mentioned in the said offer; but the Local Government may refuse to accept such offer, and may require any officer whom it may appoint for that purpose to offer the land to such persons at any other rate of revenue, or for any other term, or generally on any other conditions than those offered.

34. Until such refusal and offer of new terms on the part of the Government are notified to the persons with whom the settlement is to be made, they shall be bound by, and shall continue to hold their lands on the terms of, the offer permitted by the Financial Commissioner to be made.

35. All the owners of land in an estate shall be jointly and severally liable for the payment of the whole amount of revenue assessed upon it, and to all the process hereinafter prescribed for the collection of arrears of revenue.

36. If all the Village-Headmen in a village community agree to make such offer, such village community shall be bound by such agreement.

37. If the persons with whom the settlement is to be made neglect or refuse to make such offer as is mentioned in section thirty-two, or to accept any offer made to them under section thirty-three, the officer in charge of the settlement may exclude such persons from their estate, and may make a settlement of such estate with any other persons, or may take the estate under direct management. The period of such exclusion shall, in no case exceed the term of the settlement.

Any persons who are so excluded shall be entitled to an allowance from Government, the amount of which shall be fixed by the Financial Commissioner, but which shall not be less than five per cent., nor more than ten per cent., on the nett amount realized by Government from the land from which such persons are excluded.

38. If the term for which any settlement has been made expires before a new settlement is made, all persons who continue to occupy the land after the expiration of such term shall hold it upon the conditions of the expired settlement until a new one is made.

CHAPTER

CHAPTER IV.

MAINTENANCE OF THE RECORD OF RIGHTS.

39. When a record of rights has been handed to the Deputy Commissioner under the provisions of section seventeen, he shall from time to time record, or cause to be recorded, all facts affecting any matter stated in the record of rights which occur subsequent to the handing to him of the record of rights.

40. The Local Government shall make rules as to the facts to be so recorded and the manner in which, the persons by whom, and the occasion on which, such facts are to be recorded, and as to the fees which are to be paid in respect of recording them.

41. The Local Government shall from time to time make rules as to the procedure to be followed in making or modifying settlements of lands of which the revenue has been assigned and is resumed by Government, lands affected by alluvion, diluvion, or other river action, waste lands settled under the provisions of section twenty-seven, and other isolated portions of land.

Such rules may provide for any matters which may be provided for in a notification of settlement under section eleven, and the officers empowered by such rules to act as Settlement Officers shall have all the powers hereinbefore given to Settlement Officers.

CHAPTER V.

COLLECTION OF LAND-REVENUE.

42. The Local Government may from time to time make rules as to the instalments by which, and the places and times at which the revenue payable in respect of any land shall be paid, and for the mode in which notice as to such instalments, places, and times shall be given to the persons concerned: and, until the Local Government shall otherwise direct, the practice as to these matters now observed shall continue to be observed.

It is the duty of every person who has engaged to pay any portion of land-revenue to pay the same at the place, and before sunset of the day, appointed by the Local Government in that behalf.

Any sum not so paid becomes thereupon an arrear of land-revenue, and the person who owes such arrear becomes a defaulter.

43. When

43. When an arrear of land-revenue has become due, the Deputy Commissioner may issue a warrant ordering the defaulter to pay the amount within a time therein stated, and empowering an officer to be named in the warrant, in default of the arrear being so paid, to bring the defaulter to the tahsil at a date to be named in the warrant.

If the arrear be not paid, and if, on the day named in the warrant, the defaulter does not show satisfactory cause for extending the time for payment of the arrear, the Deputy Commissioner may direct such person to be conveyed to his head quarters and there kept under personal restraint for ten days.

The Deputy Commissioner may empower any Tahsildár of his district to exercise the powers conferred by the two preceding clauses of this section.

If the arrear be not paid within ten days, and no good reason for the delay is shown, the Deputy Commissioner may issue an order to the jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding one year from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order;

and he may order the distraint and sale of the moveable property of any such person, with the exception of instruments of husbandry, cattle actually employed in agriculture, and the tools of artisans;

or he may order either of the above processes to be enforced.

Every sale ordered under this section shall be conducted according to the law in force for the time being for the sale of moveable property under the decree of a Civil Court.

Wherever any of the processes provided in sections forty-six, forty-seven, forty-nine, or fifty-two has been enforced in respect of an arrear, the defaulter on account of whose arrear such process has been enforced shall, if he has been imprisoned under this section, be forthwith discharged.

44. No proceeding had, or process enforced, under section forty-three, shall be liable to be contested in any Civil Court, unless the person aggrieved thereby denies that the amount of revenue claimed was due, and tenders security for any arrear in respect of which the process was issued, or which is due or is likely to become due before the termination of the suit, and for any costs arising out of the proceedings in the Civil Court, in which case the Court shall issue a precept to the Deputy Commissioner to discharge

discharge the prisoner from custody; but the Court shall in no case interfere with any such distress and sale of moveable property as aforesaid.

45. If any such process as is mentioned in section forty-three is taken against any person, such person may pay the amount claimed under protest, and, upon such payment, such process shall be withdrawn, and the party against whom it was issued may sue the Government in any Civil Court for the amount so paid.

46. When an arrear of land-revenue has become due, the Deputy Commissioner may, in addition to or instead of the processes hereinbefore specified, cause the land in respect of which the arrear has become due to be attached and taken under the direct management of any agent whom he appoints for that purpose. The agent so appointed shall stand for all purposes in the position of the person on account of whose default the land was attached, and shall be bound by all the engagements or other relations which existed between such person and any subordinate proprietors or tenants with rights of occupancy, and shall be entitled to manage the land attached, and to receive all rents and profits accruing on such land, to the exclusion of the person on account of whose default the land was attached, until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

All surplus profits of the land attached, beyond the cost of such attachment and direct management, shall go to defraying the arrear and any instalment of land-revenue that may become due during such management.

And no such management shall continue after the arrear of revenue on account of which it was ordered, together with any such instalment, has been satisfied.

47. If an arrear of land-revenue has accrued in respect of the share of any member of a village community, such community or any member thereof may tender payment of such arrear, or may offer to pay such arrear by instalments; and, if such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to such community or member, on such terms as he considers equitable, either permanently or until such arrear is paid. If more such members than one make such tender or offer, the one who is most nearly related to the defaulter, or who, in case of sale, would have a right of pre-emption, shall be preferred.

48. If

48. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years, the community or member to whom the share has been so transferred may apply to the Deputy Commissioner to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute; and the Deputy Commissioner may publish such notification accordingly; and if the arrear is not paid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute accordingly.

49. The provisions contained in the two preceding sections in favour of members of a village community shall extend to mortgagees and other persons having incumbrances on the land on which the arrear is due, in case neither the community nor any member thereof take action under the said provisions.

50. The procedure prescribed in the three preceding sections shall not affect the joint and several liability of the members of the village community in which it is enforced.

51. When any arrear of land-revenue remains unpaid for more than one month, the Deputy Commissioner, in addition to or instead of any of the processes hereinbefore provided, may, with the previous consent of the Financial Commissioner, cause to be published upon the land in respect of which such arrear is due, a notification that, unless the arrear is paid within fifteen days from the date thereof, the settlement made in respect of the estate on which such arrear is due, or in respect of any portion of such estate, and all contracts made by the defaulter or any person through whom he claims, affecting such estate or portion of an estate, will be cancelled.

A copy of such notification shall be stuck up at the tahsil, and be served on each of the Village Headmen of the village in which the arrear has accrued.

52. If such arrear of land-revenue is not paid within fifteen days from the date of the notification, the said settlement and all contracts made by the defaulter or any person through whom he claims, affecting the land in such estate or portion of an estate, shall be cancelled; and the Deputy Commissioner, with the previous consent of the Financial Commissioner, may either appoint an agent to manage the land, or may let the land in farm to any person who may be willing to accept the same, for such period and on such conditions as he thinks fit; and such farmer may, during such period, either

either occupy the land himself or sub-let the same to such persons on such terms as he may think proper:

Provided that, in every case in which the provisions of this section are enforced, no lease of any of the lands mentioned in the notification shall be made to any other person till it has been first offered to the owners of such land: and such owners shall, if they accept the offer of the lease, be deemed, in the absence of express agreement to the contrary, to hold as tenants-at-will.

A cancelment under this section shall not affect any person, other than the defaulter or his representatives, having an interest in such estate which existed at the date of the last previous settlement.

53. Whenever any person is dispossessed of any beneficial interest in land by any such attachment, direct management, transfer or cancelment as is provided in this chapter, he shall be entitled to an allowance in respect thereof such as is provided in section thirty-seven.

54. If the share of any member of a village community is let to farm, under the provisions hereinbefore contained, to any person other than a member of the village community, such person shall not, during the term of his farm, be liable for the land-revenue due in respect of the other shares in the village community; and if such person is a member of the village community, he may, if the Financial Commissioner so direct, be freed from joint and several liability in respect of such share.

55. When an arrear of revenue cannot be recovered by any of the processes hereinbefore described, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, order the attachment, under section forty-six, of any beneficial interest to which the defaulter is entitled in any other land, and may apply the provisions of that section to such land until the arrear is satisfied.

56. If the Deputy Commissioner is of opinion that an arrear of land-revenue cannot be recovered by any of the means hereinbefore mentioned, he may, with the previous sanction of the Financial Commissioner, sell by auction—

any land in respect of which such arrear has accrued, or any portion or share of such land; or

any land or houses, or interest in land or houses, other than that in respect of which such arrear has accrued, to which the defaulter is entitled:

but no land or house shall be liable to be sold under this section,

if

if the land is subject to the Court of Wards, or is so circumstanced that the Court of Wards might exercise jurisdiction over it; or

if the land is under attachment under this Act, and the arrear has accrued during such attachment; or

if the land is held in farm under this Act by a person who is not a member of the village community within whose estate such land is situated, and if the arrear has accrued during the term for which it is so held in farm.

57. Land or other property sold under the last preceding section shall be sold free of all incumbrances, and all contracts made by any person in respect of such land or property shall become void as against the purchaser at the auction-sale.

58. In all sales under section fifty-six, the procedure provided by sections two hundred and forty-nine, two hundred and fifty-three to two-hundred and sixty, inclusive, of the Code of Civil Procedure, shall be followed, except in the following particulars:

(1) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and upon such payment the sale shall be stayed:

(2) The proclamation of intended sale provided in the said section two hundred and forty-nine shall declare that the land is to be sold free of every incumbrance, except the land-revenue and other legal charges to which it may be from time to time assessed:

(3) The appeal provided in section two hundred and fifty-seven of the said Code shall lie to the Commissioner of the division, and an appeal from the Commissioner's order shall lie to the Financial Commissioner:

(4) The certificate provided in section two hundred and fifty-nine of the said Code shall state that the purchaser has purchased the land to which the certificate refers free of every incumbrance, except the land-revenue and other legal charges to which it may be from time to time assessed.

59. A suit may be brought in a Civil Court to set aside any such sales on any ground on which a sale under the Code of Civil Procedure might be set aside; but not on any of the following grounds:

(1) that a tender of the arrear of land-revenue on account of which such sale took place was made on or after the day named for the sale in the proclamation of intended sale;

(2) that the defaulter had any claim against the Government;

(3) that the revenue due from the defaulter had been remitted, unless the Local Government admits it;

(4) that

(4) that money belonging to the defaulter, and sufficient to satisfy the whole or any part of the arrear, was in any Government treasury, unless the defaulter had an exclusive and undisputed property therein, and unless, after application by the defaulter within the time specified in the notification of intended sale that such money should be applied to the satisfaction of the arrear, the Deputy Commissioner neglected or refused upon insufficient grounds so to apply it; or

where land is sold for an arrear of revenue due in respect thereof,

(5) that the land sold does not belong to the defaulter.

Application of proceeds of sale. 60. The proceeds of any sale under section fifty-six shall be applied as follows:

(1) to the payment of the arrear due;

(2) to the payment of any other arrear of land-revenue due by the same person;

(3) the surplus shall be paid to the person whose land has been sold; or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their respective interests, at the discretion of the Deputy Commissioner.

Rules as to payment of surplus to creditors. 61. Such surplus shall not be payable to any creditor of the person whose land has been sold on demand of such creditor, nor shall it be retained in the land-revenue treasury, except under precept of a Civil Court and in satisfaction of a decree of such Court; and, whenever such surplus has been paid to the creditors of the owner of any land under a precept of such Court, and the sale of such land is afterwards annulled, such owner shall not be restored to possession, until the amount so paid is returned by him with such interest as the Deputy Commissioner directs.

Purchaser's liability. 62. The person named in the certificate of title as purchaser shall be liable for all instalments of land-revenue which may fall due subsequently to the date of the certificate.

Application of Act to existing arrears. 63. The provisions of this chapter shall apply to all arrears of land-revenue due at the passing of this Act.

CHAPTER VI.

MISCELLANEOUS.

Powers for recovery of revenue other than land-revenue. 64. Deputy Commissioner may exercise all or any of the powers hereinbefore provided for the recovery of land-revenue, for the recovery of any other revenue due from any person to the Government.

65. No

Limitation of jurisdiction of Civil Courts.

65. No Civil Court shall take cognizance of any of the following matters:—

(1) claims against Government brought by any person in respect of any matter connected with the offices mentioned in section six;

(2) claims against one another, as to partition, by persons who do not contest the correctness of the entries in the record of rights;

(3) the formation of the record of rights, the preparation, signing and attestation of the documents contained therein, or the notification of an intended settlement;

(4) any matter for which provision is made in section twenty-seven;

(5) the right of any person or persons to be settled with, or the validity of any engagement with Government for the payment of land-revenue;

(6) claims arising out of, or connected with, the collection of land-revenue, or any process enforced on account of neglect or refusal to engage or on account of an arrear of land-revenue, except where it is otherwise expressly provided in this Act.

Appeal. In all the above cases an appeal shall lie to the Deputy Commissioner from all orders and decisions of any officer subordinate to him; and to the Commissioner from all orders, and decisions, original or appellate, of the Deputy Commissioner; and to the Financial Commissioner from all orders and decisions of the Commissioner.

Power to call for record of proceedings. The Financial Commissioner shall have power to call for the record of any proceeding had under this section by any revenue or settlement officer, and to pass such order as he thinks fit.

Conduct of proceedings. Such proceedings shall be conducted according to the rules prescribed by the Local Government.

Fees. Such fees shall be chargeable in respect of proceedings under this section, whether original or appellate, as the Local Government from time to time, with the sanction of the Governor-General in Council directs.

Power to make rules for purposes of Act. 66. The Local Government may, with the previous sanction of the Governor-General in Council, make and issue, and may, with the like sanction, from time to time, alter, rules in accordance with the provisions of this Act to regulate and specify—

(1) the proceedings of any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the

(3) the persons by whom, the time, place, and manner at or in which, anything for the doing of which provision is made in this Act shall be done;

(4) the amount of any fine to be imposed or charge to be made under the provisions of this Act;

(5) the form and contents of reports to be furnished by settlement officers and the period within which such reports shall be so furnished;

(6) and generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall have the force of law.

67. All rules having the force of law made under this Act shall, with the Periodical re-publication of rules. previous sanction of the Government of India, be re-published once at least 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 previous rules shall be repealed.

All rules heretofore prescribed by competent authority, in respect of any of Operation of existing rules. the matters for which rules may be made under this Act, shall be deemed to be in force for six months after this Act comes into force, unless any rules on the same subject are previously issued by the Local Government.

MADRAS.

ACT No. I. OF 1871.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[Received the assent of the Governor on the 7th February 1871, and of the Governor-General on the 6th March 1871.]

An Act to amend Madras Act VI. of 1866 (An Act for repealing Madras Act V. of 1862, and for regulating the Bank of Madras); to give validity to certain acts done by the Directors of the Bank of Madras; and to enable out-going Directors to be re-elected.

WHEREAS Section 13 of Madras Act V. of 1862 (*An Act for regulating the Bank of Madras*) provided that the business of the said Bank should Preamble. be managed by nine Directors; and whereas a similar provision is contained in Section 13 of Madras Act VI. of 1866 (*An Act for repealing Madras Act V. of 1862, and for regulating the Bank of Madras*); and whereas, under a bye-law of the said Bank passed in the year 1863, it has been the practice that three of the said nine Directors should form a Quorum for the transaction of the business of the said Bank; and whereas doubts have arisen as to the legality of such practice, and it is expedient to remove such doubts; and whereas it is expedient to make out-going Directors eligible for re-election; It is enacted as follows:—

Quorum of Directors at their meetings. 1. Three of the Directors of the said Bank shall form a Quorum for the transaction of business at any meeting of the Board.

2. No

No past act of Directors to be invalid by reason of its having been done by a less number than nine.

2. No act heretofore done by the Directors of the said Bank shall be deemed to be, or to have been, invalid, merely because it was done by a less number than nine of the said Directors.

3. Section 15 of Madras Act VI. of 1866 is hereby repealed, and in lieu thereof the following section is enacted:—

“Two of the six Directors elected and to be elected by the said Proprietors, shall, in rotation, go out of office, on the second Monday in the month of December in every year, on which day a General Meeting of Proprietors shall be held for the election of two Directors in their stead; provided always that any Directors going out by rotation as aforesaid shall be re-eligible at the election which takes place thereupon; and provided also that the rotation existing at the time of this Act coming into operation shall continue to be observed.”

Directors to go out by rotation.

Meeting of Proprietors shall be held for the election of two Directors in their stead;

Election of new, and re-election of out going, Directors.

MADRAS.

ACT No. II. of 1871.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[Received the assent of the Governor on the 7th February 1871, and of the Governor-General on the 18th March 1871.]

An Act to declare the meaning of Clause 4, Section 11 of Madras Act VIII. of 1865.

Whereas doubts have arisen as to the true meaning of the first proviso in Clause 4, Section 11 of Madras Act VIII. of 1865, and whereas it is expedient to remove such doubts;—it is enacted as follows:—

1. Clause 4 of Section 11 of Madras Act VIII. of 1865 shall be read as if it contained and had always contained the following words, as and in lieu of the words which at present form the first proviso to the said clause:—

Alteration of Clause 4, Section 11 of Madras Act VIII. of 1865.

“Provided always that nothing herein contained shall affect the right of any such landholder to raise the rent upon any of his lands in consequence of additional value imparted to them by any work of irrigation or other improvement executed at his own expense; or, where additional value having been imparted to any of his lands by any work of irrigation or other improvement executed at the expense of

of Government, he has been required to pay an additional value to Government in consequence of such last-mentioned additional value or work of irrigation or other improvement. But, in either case, the sanction of the Collector as to the amount of additional rent shall be obtained by the landholder previous to his raising such rent upon his said lands or any of them."

MADRAS.

ACT No. III. OF 1871.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[Received the assent of the Governor on the 2nd March 1871, and of the Governor-General on the 28th March 1871.]

THE TOWNS' IMPROVEMENT ACT, 1871.

ARRANGEMENT OF SECTIONS.

Preamble.

SECTION.

1. Short Title.
2. Interpretation.
 - The Commissioners.
 - Building.
 - Town.
 - Land:
 - Horse.
 - Street.
 - Owner.
 - Official year.
3. Madras Acts X of 1865, VI of 1863 and III of 1866 to have no effect in places to which this Act is extended.

All the property and rights of action of the Commissioners appointed under Madras Acts X of 1865 and VI of 1863, vested in the Commissioners appointed under this Act.

SECTION.

4. Actions, &c., by or against late Commissioners not to abate.
5. For purposes of this Act, the Governor in Council may define limits of Town, &c., and create unions of places.
6. Act not to take effect in any Town until it shall have been extended thereto.

Establishment of Municipal Commissions and Constitution of Municipal Funds.

7. Appointment and removal of Commissioners.
8. Ex-officio Members.
9. Election of Commissioners by the rate-payers.
10. Appointment of President and Vice President.
11. Commissioners to have and use a common seal.
12. Commissioners empowered to sue and be sued, to hold property, and enter into contracts.
13. Public streets, &c., vested in the Commissioners.
14. Commissioners may, with consent of owners, take over and repair certain streets.
15. Existing hospitals, schools, choultries, &c., vested in the Commissioners.
16. Saving of Revenue Board's powers in regard to charitable endowments.
17. What shall constitute the Municipal Fund.
18. Power to purchase and sell lands.
19. The Governor in Council may declare any land to be needed for a public purpose, &c.
20. No Commissioner to be personally liable for contracts, &c., but only for wilful misapplication, &c., of money.
21. Penalty on Commissioners and others being interested in contracts.

Mode of transacting business and appointing Municipal Servants.

22. Commissioners to keep an Office for the transaction of business.
23. Who to preside at Meetings of the Commissioners.
24. Casting vote.
25. Minutes of Proceedings of Commissioners to be kept, and to be open for inspection.
26. Quorum.
27. The President or one of the Vice-Presidents to exercise, with certain exceptions, the powers of the Commissioners.

28. Appointment

SECTION.

28. Appointment of Overseers, Clerks, and Subordinate Officers.

Purposes to which Funds raised under this Act shall be applied, and how estimates of Income and Expenditure shall be framed.

29. Purposes to which the Funds raised under this Act shall be appropriated.
30. Contribution to extra Municipal expenditure.
31. Appointment of officers to superintend operations of Municipalities.
32. Annual estimate of expenditure to be submitted to the Governor in Council.
33. Government to pass orders on estimate.
34. An annual Report of Proceedings, &c., to be submitted.
35. Saving of power of Government to appoint Local Committees for Schools, &c.
36. Disposal of sums collected.
37. Mode of drawing money.
- Rates, Taxes, Tolls, and Fees leviable under this Act.*
38. Rates, taxes, tolls, and fees leviable.
39. No tax for period for which payment has been made under Madras Acts X of 1865, VI of 1863 and III of 1866.

Rates to be levied on Houses, Buildings, and Lands under this Act.

40. Rates on houses, &c., to be levied as provided for.
41. Rates on houses, &c., how to be levied.
- Exemption from assessment in case of certain houses, &c.
42. Annual value to be assessed by the Commissioners.
43. Value assessed, owner's name, &c., to be entered in a book.
44. Valuation now standing in the book of the Commissioners, to be taken as the first under this Act, till new one be made.
45. Owner or occupier how to be designated, if his name be unknown.
46. Returns may be required for the purposes of valuation.
- Power to enter houses, &c.*
47. Public notice of valuation and assessment to be given.
48. After revision, amendments to be authenticated by signature of two Commissioners.

Further alteration or amendment of Assessment.

49. New

SECTION.

49. New lists need not be prepared every year.
50. Remission on account of vacant houses.
51. Bill to be presented.
52. Notice of Demand.
Warrant of Distress.
53. Rate due from owner may be recovered from occupier and deducted by him from his rent.
54. Inventory and notice of sale.
55. Sale.
Fees.
56. Distress not unlawful for want of form.

Tax on Arts, Professions, Trades and Callings.

57. Tax on Arts, &c., to be levied as provided for.
58. Persons exercising certain professions, trades, and callings in the Town to pay a tax in respect thereof.
59. Commissioners to classify all persons liable by this Act to be taxed.
60. Persons chargeable under one designation only.
61. Commissioners to prepare a list of all persons to be taxed under this Act.
Appeal.
62. Penalty for trading without having paid the trade tax.

Taxes on Carriages, Horses, and other animals.

63. Taxes on carriages, &c., to be levied as provided for.
64. Taxes on carriages, horses, &c.
Exemption from tax on carriages and animals.
65. Owners of carriages, &c., to take out license.
66. On payment of the tax, a license to be given.
67. Penalty for keeping a carriage, &c., without having a license.
68. Carriages kept for hire to bear a registration number.
69. The Commissioners may compound for carriages with livery stable keepers and others.
70. Carriages, &c., within the Town, although owned by persons not residing therein, liable to the tax.
71. List of persons licensed under section 66 to be entered in a book.
72. Power to enter premises.

Registration

SECTION.

Registration of Carts and other vehicles without springs.

73. Registration of carts, &c., to be made as provided for.
74. Registry and numbering of carts, &c.
75. Fee for registration.
76. Penalty for not registering a cart or other vehicle.

Tolls payable for Carriages and other vehicles, and for Animals entering the Town.

77. Tolls for carriages, &c., to be levied as provided for.
78. Tolls to be levied on carriages, carts and animals entering the Municipal limits.
79. In case of non-payment of toll, vehicle, &c., may be seized.
80. Troops, Military stores, Police, &c., exempt.
81. The Commissioners may compound with persons living outside the Municipal limits for a payment in lieu of tolls.
82. Police to assist toll Collectors.
83. Illegal collection of tolls.
84. Table of tolls to be exhibited.

Appeals.

85. Hearing of appeals.
Assessment when to be final.
86. Limitation of appeal.
87. Assessment, &c., not to be impeached if the directions of the Act are, in substance, complied with.

Registration of Births and Deaths.

88. Commissioners to keep a Register of Births and Deaths and to appoint Registrars.
89. Every Registrar to be resident in the Town or District; list of Registrars to be published, &c.
90. Commissioners to have Register Books prepared, and to furnish extracts, as prescribed.
91. Registrar to inform himself of and register births and deaths.
92. Information of birth, how to be given.
93. Information of death, how to be given.
94. Penalties.
95. Person giving information to sign the register.

96. Places

SECTION.

General Conservancy Clauses.

96. Places of deposit for filth.
97. Occupiers of houses to remove night soil, &c., to carts of Commissioners.
Proviso.
98. All rubbish collected, to be the property of Commissioners.
99. Dust boxes in streets.
100. Depositing dirt in streets, &c.
101. Allowing sewage to flow on streets.
102. Removal of night soil.
103. Penalty on occupier of a house not removing filth.
104. Filthy houses.
105. Common necessities.
106. Licensed public necessities.
107. Construction of privies.
108. Sewers, and drains, &c., under control of the Commissioners.
109. Sewers, &c., to be constructed under the direction of the Commissioners.
110. Branch drains, privies, &c., under control of Commissioners.
111. Penalty for making drains, &c., contrary to Commissioners' orders.
112. Throwing rubbish into sewers.
113. Inspection of drains, privies, and cess-pools.
114. All public streams, &c., to be under direction and control of the Commissioners.
115. Bathing places, &c.
116. Fouling water by bathing, &c.
117. Power to require unwholesome tanks on private premises to be cleansed or drained.
118. Stagnant pools in open places.
119. Dangerous places to be repaired or enclosed.
120. Houses, &c., in a ruinous or dangerous state.
121. Occupier may retain or recover cost of works executed at his expense from owner, and one owner may enforce contribution from other owners.
122. Sale of materials of ruinous houses, &c.
123. License for Slaughter-houses.
124. Provision of markets and slaughter-houses.
125. No new market to be established.

126. Inspection

SECTION.

126. Inspection of markets and slaughter-houses.
127. Sale of unwholesome food and drink.
128. Inspection of weights and measures.
129. Penalty for establishing certain offensive or dangerous trades.
130. Licenses to be granted.
131. License for continuing offensive trades already existing.
132. Case of such trades to be brought to Magistrate's notice.
133. No burial or burning place henceforth to be formed without leave of Commissioners.
134. Commissioners may order certain burial or burning grounds to be closed.
135. Burial places, &c., to be provided.
136. Cart-stands and halting places for vehicles and cattle.
137. Provision and inspection of cart-stands or halting places for vehicles and cattle.
138. Future obstructions in the streets.
139. Removal of existing obstructions.
Proviso.
140. Taking up or altering pavements, &c., without authority.
141. Private persons laying out new streets.
142. Erection of new huts.
143. Power as to existing huts.
144. Buildings may be set forward for improving line of streets.
145. Buildings projecting beyond line of streets, when taken down, to be set back.
146. Names of streets.
147. Numbers on houses.
148. Roofs and external walls of huts not to be made of inflammable material.
149. Power to trim hedges and trees bordering on roads.
150. Power to remove noxious vegetation, &c.
151. Power to enter and cleanse buildings.
152. Penalty for failure to obtain renewal of licenses issued under Sections 106, 123, 125, 130, 133, and 136.
153. Licenses.
154. Powers of the Police.
155. Duties of Police.

General Provisions.

156. Publication of Notifications under this Act.

157. Damage

SECTION.

157. Damage to the Commissioners' property to be made good in addition to penalty.
158. Offender may be detained in custody, or compelled to give security, if fine, &c., be not forthwith paid.
159. If no sufficient distress can be had, or there be not sufficient property whereupon the fine, &c., can be levied, the offender, if not a European British subject, may be imprisoned.
160. Service of notice.
161. Commissioners may sue in competent Court instead of distraining, or on failure of distress.
162. Power to make compensation out of the Municipal Fund.
163. Commissioners empowered to make Bye-laws.
Proviso.
164. Damages, costs or expenses how recoverable.
165. Confirmation and publication of Bye-laws.
166. Bye-laws, until repealed or altered, to have like effect as if inserted in Act.
167. Bye-laws under Act X of 1865 to continue in force until abrogated.
168. No action to be brought against the Commissioners, or their Officers, until after one month's notice of cause of action.
169. Commissioners may direct prosecutions.
170. Prosecutions under this Act.

SCHEDULES.

- A. Table of fees payable upon distraints under this Act.
- AI. No. 1, Notice of demand.
No. 2, Distress warrant.
No. 3, Form of Inventory and notice.
- B. Arts, professions, trades and callings, liable to be taxed.
- C. Vehicles and animals liable to taxation, with the maximum rates of taxation.
- D. Maximum rates of tolls payable on entering the Municipal limits.

MADRAS,

MADRAS,

ACT No. III. OF 1871.

An Act to make better provision for the conservancy and improvement of Towns in the Presidency of Fort Saint George, for the diffusion of education therein, and for other objects of public utility calculated to promote the health, comfort or convenience of the inhabitants of the said Towns.

WHEREAS it is expedient to make better provision for the conservancy and improvement of Towns in the Presidency of Fort Saint George, for the diffusion of education therein, and for other objects of public utility calculated to promote the health, comfort, or convenience of the inhabitants of the said towns; It is enacted as follows:—

1. This Act may be cited as the "Towns' Improvement Act, 1871."

2. The following words and expressions in this Act shall have the several meanings hereby assigned to them, except where a different intention shall appear from the context; that is to say:—

The expression "The Commissioners" shall mean the persons appointed by the Government or elected by the rate-payers to conduct the affairs of any town under this Act, and shall include ex-officio Commissioners under this Act.

The word "House" shall include any hut, shop or warehouse.

The word "Town" shall include any village, hamlet, suburb, station, bazaar, or place the limits of which shall be defined as in this Act provided, and shall also include any number of the same when declared to be united as in this Act provided.

The word "Land" shall include fields, plantations, and gardens.

The word "Horse" shall include ponies and mules.

The word "Street" shall mean any road, street, square, court, alley, or passage, whether a thoroughfare or not, over which the public have a right of way, together with such land (not being private property) whether covered or not by any pavement, pyall, verandah, or other erection or structure, as may be between the roadway and the main wall of any house or houses adjacent thereto, and also the roadway over any public bridge or causeway

causeway, within the town; and the expression "in or near any street" shall designate any place within the town. Provided that nothing in this Section shall be taken to interfere with any easement enjoyed by any person in respect of such land at the date of the passing of this Act.

The word "Owner" shall mean the person for the time being receiving the rent of the land or premises, whether paid in money or in

"Owner."

kind, or in charge of the animal or thing, in connection with which the word is used, whether on his own account, or as agent, or trustee, for any other person, or who would so receive the rent if such land or premises were let to a tenant. Provided that no person receiving the rent of land or premises as agent for another person, shall be liable to make any outlay by this Act required to be made by the owner of such land or premises, in excess of the amount of the funds, or of the value of the produce, belonging to the owner, which he may have in his possession; nor shall he be subject to any penalty, if he can prove that he has made the outlay required to the extent of such funds.

The words "Official year" shall mean the year beginning on the first day of April, or such other date as may hereafter be fixed by the

"Official year."

Governor in Council by Notification in the *Fort Saint George Gazette*.

3. Madras Act No. X of 1865 (The Towns' Improvement Act, 1865), the

Madras Acts X of 1865, VI of 1863, and III of 1866, to have no effect in places to which this Act is extended.

Madras Education Act (No. VI of 1863), and the Madras District Road Cess Act (No. III of 1866) shall, in every town to which this Act shall be extended, cease to have effect, except

as to any assessment made, or as to any act done, or as to any liability incurred, or as to any money due, or as to any proceedings commenced in such town, before such Act shall have effect therein. All lands, buildings, works, and hereditaments,

All the property and rights of action of the Municipal and School Commissioners appointed under Acts X of 1865 and VI of 1863 vested in the Commissioners appointed under this Act.

utensils, materials, books, plans, maps, papers, effects, securities, and monies, whether derived under the said Madras Act X of 1865 or under Madras Act VI of 1863, and other property, moveable and immoveable, of what nature or kind soever, and all interest therein, whether vested, contingent, or in remain-

der, which shall, on the date on which this Act shall take effect in such town, be vested in, or held in trust for the Commissioners appointed under the said Madras Acts X of 1865 and VI of 1863 respectively, who shall hereafter in this Act be designated the late Commissioners, or which would have been vested in or held in trust for such Commissioners but for the passing of this Act, and all such estate and interest of and in the same respectively, as shall then be or

would

would have been in, or in trust for the said Commissioners or any of them, with all rights of way and other rights and easements now used and enjoyed by the said Commissioners, shall, on and from the date when this Act comes into operation in such town, be vested in the Commissioners appointed under this Act and their successors; and all persons who shall then owe any money to the late Commissioners or to any person on their behalf, shall pay the same to the Commissioners appointed under this Act, or as they shall direct: and all monies which shall be then due, and owing by, or recoverable from the late Commissioners, shall be paid by or be recoverable from the Commissioners: and all contracts, agreements, mortgages, bonds, covenants and securities made or entered into before this Act comes into operation, to, with, or in favour of, or by, or for the said late Commissioners or any of them, or any person on behalf of such late Commissioners, and all rights of action and suit arising out of contract or otherwise, shall take effect, and may be proceeded on and enforced, as far as circumstances will admit, in favour of, by, against, and with reference to, the Commissioners in such manner as the same would have taken effect, and might have been proceeded on and enforced in favour of, by, against, and with reference to, the said late Commissioners or any of them, if this Act had not been passed.

4. No action, suit, prosecution, or other proceeding whatsoever, commenced

Actions, &c., by or against Commissioners not to abate, &c.

or carried on either by or against the late Commissioners previously to the coming into operation of this Act, shall abate or be discontinued or prejudicially affected by this Act, but shall continue and take effect both in favour of and against the Commissioners, in the same manner in all respects as the same would have continued and taken effect in relation to the late Commissioners, or any of them, if this Act had not been passed: and all decrees and orders made, and all fines and penalties imposed and incurred, respectively, previously to the coming into operation of this Act, shall and may be enforced, levied, recovered, and proceeded for; and all administrative proceedings, commenced previously to the coming into operation of this Act shall and may be continued, proceeded with, and completed in such or the like manner as if this Act had not been passed, the Commissioners under this Act being, in reference to the matters aforesaid, in all respects substituted for the late Commissioners.

5. For the purposes of this Act, the Governor in Council may, from time to

For purposes of this Act, the Governor in Council may define limits of town, &c., and create unions of places.

time, by Notification, define the limits of any town, village, hamlet, suburb, station, bazaar, or place not being within the limits of the town of Madras; and may, from time to time, by

such

such Notification, declare to be united for the purposes of this Act, any number of such towns, villages, hamlets, suburbs, stations, bazaars, or places, or any parts thereof; and may declare who shall be deemed inhabitants, within the meaning of this Act, of any such town; and by what name such town shall be designated.

6. The provisions of this Act shall not take effect in any Town for the first time defined or declared to be united as aforesaid, until three months after the Governor in Council, by Notification, shall have signified that this Act is to be extended thereto.

Act not to take effect in any town until it shall have been extended thereto.

ESTABLISHMENT OF MUNICIPAL COMMISSIONS AND CONSTITUTION OF MUNICIPAL FUNDS.

7. In any town to which the operation of this Act shall have been extended, the Governor in Council shall appoint not less than three persons, being owners of lands or buildings in such town, or carrying on business therein, or residing in such town, to be Commissioners for carrying out in such town the purposes of this Act. The persons so appointed shall continue in office three years, or until their successors shall have been appointed, and shall be eligible for re-appointment. The Governor in Council may, from time to time, accept the resignation of any of such Commissioners, or may remove any of such Commissioners for misconduct or neglect of duty, add to their number, and fill up vacancies occurring among them.

Appointment and removal of Commissioners.

8. In addition to the Commissioners to be appointed as aforesaid, the Collector of the District and the Revenue Officer in charge of the Division of the District in which the Town is situate, shall be ex-officio Commissioners of every Town in their respective jurisdictions, to which this Act shall be extended; and it shall further be competent to the Governor in Council to appoint as a Commissioner of any such Town any officer in the service of Government holding a salaried office in the District in which the Town is situate; provided that not more than one-half of the whole number of Commissioners shall be persons holding salaried offices in the service of Government, unless such persons be elected to be Commissioners under the provisions of Section 9 of this Act.

Ex-officio Members.

9. If at any time it shall appear to the Governor in Council to be advisable that a certain number of the Commissioners of any town shall be appointed by election by the rate-payers, it shall be competent to the said Governor in Council to take measures for the election of such Commissioners by the rate-payers, subject to such rules and orders as may be passed by the Government. The persons so elected shall continue in office three

Election of Commissioners by the rate-payers.

years,

years, or until their successors have been elected, and shall be eligible for re-election. The Governor in Council may, from time to time, accept the resignation of any of the Commissioners so elected, or may remove any of such Commissioners for misconduct or neglect of duty.

10. The Collector of the District shall ex-officio be President of the Commissioners for all Towns within the District under his charge, and the Governor in Council shall from time to time appoint one of the Commissioners of each Town to be Vice-President. Provided that if at any time it shall appear to the Governor in Council to be advisable that in any Town the Vice-President shall be appointed by election by the Commissioners, it shall be competent to the said Governor in Council to authorize the election of such Vice-President by the Commissioners.

Appointment of President and Vice-President.

11. The Commissioners shall have and use a common seal, and shall have their name engraven thereon in legible characters in the English language and also in the Vernacular language of the District. All contracts entered into in respect of any sum exceeding 20 Rupees shall be in writing, and shall be sealed with the common seal of the Commissioners, and, on their behalf, in the presence of at least two of the Commissioners, one of whom shall be the President or, in the absence of the President, the Vice-President, who shall certify the same by affixing their signatures as witnesses at the foot of the instruments. All such contracts shall be varied or discharged in a similar manner.

Commissioners to have and use a common seal.

12. The Commissioners of each town shall sue and be sued in the name of their President by the description of "The President of the Commissioners of _____;" and, in such name so described, they shall be competent to hold property, moveable and immoveable, to them and their successors as a body corporate, and to convey the same, and to enter into all necessary contracts for the purposes of this Act.

Commissioners empowered to sue and be sued, to hold property, and enter into contracts.

13. All public streets in any Town (not being private property) existing at the time this Act comes into operation, or which shall afterwards be made, and the pavements, stones, and other materials thereof, and also all erections, materials, implements, and other things provided for such streets, shall vest in, and belong to, the Commissioners and their successors. But it shall be competent to Government from time to time, by Notification, to exclude any road or street from the operation of this Act, and to cancel such Notification, wholly or in part.

Public streets, &c., vested in the Commissioners.

14. It

14. It shall be lawful for the Commissioners to agree with the person or persons in whom the property in any street is vested, to take over the property therein, and, after such agreement, to declare, by notice in writing put up in any part of such street, that the same has become a public street. Thereupon such street shall vest in the Commissioners and their successors, and shall thenceforth be repaired and kept up out of the Municipal Fund.

15. All or any hospitals, dispensaries, schools, choultries, markets, tanks, and wells, not being private property and not governed by Regulation VII of 1817 of the Madras Code, and all medicines, furniture and other articles appurtenant thereto, not being private property, which, at the time this Act comes into operation in any town, shall be found therein, may by Notification of the Governor in Council be vested in the Commissioners; and thereupon all endowments or funds belonging to such hospitals, dispensaries, schools, or choultries, shall be transferred to, and vest in the Commissioners as trustees to hold and apply the same to the purposes to which such endowments and funds were lawfully applicable at the time of such transfer. Provided always that no such Notification shall be issued until one month after the intention to transfer such property shall have been notified by the Governor in Council in the District Gazette in English and in the Vernacular language of the District.

16. Nothing in this Act contained shall be deemed to affect the duties and powers vested in the Board of Revenue in respect of charitable endowments by Regulation VII of 1817. But it shall be competent to the Board, with the written consent of the Government and of the Commissioners, to make over to the Commissioners, the management and superintendence of any such endowment; and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to such Commissioners, as if they had been specifically named in the said Regulation.

17. All monies, rents, and profits received by the Commissioners of any Town by virtue of this or any other Act, and all fines, fees, and penalties paid or levied under this Act, and all other monies which, under sanction of Government, may be transferred to such Commissioners, shall be credited to, and shall constitute a fund which shall be called the Municipal Fund of such town, and shall, together with all property of every nature or kind which may become vested in the said Commissioners, be under their control, and shall be held by them and their successors in trust for the purposes of this Act.

18. The

18. The Commissioners may agree with the owners of any land for the purchase thereof for the purposes of this Act, and may lease out or sell any land belonging to the Municipality and not required for such purposes, either together or in parcels; and the rent of such land, or the proceeds of such sale shall be applied for the purposes of this Act.

19. When the Commissioners may be unable to agree with the owners of any land for the purchase thereof, the Governor in Council may, upon the representation of the Commissioners and after such inquiry as may be thought proper, declare that the land is needed for a public purpose, and may order proceedings to be taken for obtaining possession of the same for the Government, and for determining the compensation to be paid to the parties interested, according to any law now or hereafter to be in force for the acquisition of land for public purposes. On payment by the Commissioners of the compensation awarded, such land shall vest in them and their successors in trust for the purposes of this Act.

20. No Commissioner shall be personally liable for any contract made, or expense incurred, by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts and expenses duly incurred as aforesaid. Every Commissioner shall be personally liable for any misapplication of money entrusted to the Commissioners, to which he shall have been a party, and he shall be liable to be sued for the same.

21. No Commissioner or servant of the Commissioners shall be interested, directly or indirectly, in any contract made with the Commissioners. And if any such person be so interested, he shall thereby become incapable of continuing in office or in employment, and shall be liable to a fine not exceeding 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 Commissioner by reason of any contract entered into between such Company and the Commissioners. Nevertheless, it shall not be lawful for such shareholder or member to act as a Commissioner in any matter relating to any contract entered into between the Commissioners and such Company.

MODE OF TRANSACTING BUSINESS AND APPOINTING MUNICIPAL SERVANTS.

22. The Commissioners shall keep an Office where they shall meet for the transaction of business at least twice in every month, upon such days and at such times as they may arrange, and as often as a Meeting shall be called by the President or, in his absence, by the

the Vice-President. And all questions, which may come before them at any Meeting shall be decided by a majority.

Who to preside at Meetings of the Municipal Commissioners. 23. In the absence from any Meeting of the President and Vice-President, the Commissioners shall choose some one of their number to preside.

Casting vote. 24. In every case of equality of votes, the presiding Member shall have a second or casting vote.

Minutes of Proceedings of Commissioners to be kept, and to be open for inspection. 25. Minutes of the Proceedings of the Commissioners at each Meeting shall be drawn up and fairly entered in a book to be kept for that purpose; and shall be signed by the Member who presided at such Meeting, or, in his absence, by some one of those present. And the said Minutes shall be published in the District Gazette in English and in one of the Vernacular languages of the District, and shall, at all reasonable times and without charge, be open at the Office of the Commissioners to the inspection of any person who pays a rate or tax under this Act, on behalf of himself or of any other person.

Quorum. 26. No business shall be transacted at a Meeting unless at least three Commissioners be present.

The President or one of the Vice-Presidents to exercise, with certain exceptions, the powers of the Commissioners. 27. In any case of emergency, the President, or, in his absence, the Vice-President shall exercise all the powers vested by this Act in the Commissioners. Provided that it shall not be lawful for the President or the Vice-President to exercise any power which it is by this Act expressly declared shall be exercised by the Commissioners at a Meeting.

Appointment of Overseers, Clerks, and subordinate Officers. 28. The President shall, from time to time, appoint all such Overseers, Clerks, and subordinate Officers, as he may think necessary and proper to assist in the execution of this Act, and may, from time to time, remove any of such persons and appoint others in their places. And, out of the Municipal Fund, he shall pay, or cause to be paid, such salaries to the said persons respectively as may be determined by the Commissioners at a Meeting; or, in case of absence on leave, such portion thereof as may appear to the Commissioners to be reasonable. He shall also take from every Tax Collector such security for the sums collected by him as he may think proper.

PURPOSES

PURPOSES TO WHICH THE FUNDS RAISED UNDER THIS ACT SHALL BE APPLIED, AND HOW ESTIMATES OF INCOME AND EXPENDITURE SHALL BE FRAMED.

Purposes to which the funds raised under this Act shall be applied. 29. The funds raised under this Act shall, subject to such rules and restrictions as the Governor in Council may, from time to time, prescribe, be applicable within the towns in which they are raised, to the following purposes,—that is to say :—

I. The construction, repair, and maintenance of streets and bridges.

II. The diffusion of education, and, with this view, the construction and repair of school-houses, the establishment and maintenance of schools, either wholly or by means of grants-in-aid, the inspection of schools, and the training of teachers.

III. The construction and repair of hospitals, dispensaries, lunatic asylums, choultries, markets, tanks and wells, the payment of all charges connected with the objects for which such buildings have been constructed, the training and employment of medical practitioners and vaccinators, the sanitary inspection of towns and villages, the application of the Indian Contagious Diseases Act, the registration of births and deaths, the cleansing of the streets and tanks, and any other local works of public utility calculated to promote the health, comfort, or convenience of the people.

Contribution to extra Municipal expenditure. 30. It shall be competent to the Commissioners, with the sanction or upon the direction of the Government, to contribute a portion of the Municipal Funds towards the expenses incurred in any other Municipality under this Act, or in any Circle constituted under the Local Funds Act, where such expenditure is incurred for any of the purposes described in the last preceding section, and is calculated to benefit the inhabitants of the contributing Town. Provided always that, where such contribution has not been originally recommended by the Commissioners, it shall not be obligatory upon them until the proposal to make such contribution shall have been submitted to them by the Government, and they shall have had the opportunity of offering their opinions thereon.

Appointment of officers to superintend operations of Municipalities. 31. It shall be competent to the Government to appoint from time to time such officers as may be required for the purpose of inspecting or superintending the operations of the Municipalities created by this Act, and to assign to them such salaries as the Governor in Council shall think reasonable; and the expense incurred by reason of such appointments shall be defrayed in rateable proportions out of the Funds of the several Municipalities established under this Act.

32. The

32. The Commissioners shall, at such time or times, and in such form as the Annual estimate of expenditure to be submitted to the Governor in Council. Governor in Council shall direct, furnish for the sanction of the Governor in Council, a statement or estimate showing the probable receipts and the expenditure which it is proposed by the Commissioners to incur during the year commencing on the first day of April then next, and the items in respect of which it is proposed to incur such expenditure, and may also furnish a supplemental estimate providing for any modifications which they may deem it advisable to make in the distribution of the amount to be raised and expended in the official year then current for the purposes of this Act.

33. It shall be lawful for the Governor in Council to pass such orders as Government to pass orders on estimate. he shall think fit upon the original or supplemental estimate so submitted to him, and such orders shall be binding upon the Commissioners, and shall be carried out by them so far as the means at their disposal will permit.

34. The Commissioners shall, at such time or times and in such form as the An Annual Report of Proceedings, &c., to be submitted. Governor in Council shall direct, furnish an Annual Report of their Proceedings, and statements in detail of all the works executed by them, and of all sums received and expended by them. All the Municipal Accounts shall be audited by such person and in such manner as the Governor in Council shall direct. The Annual Report shall be published in the District Gazette.

35. Nothing in this Act contained shall be deemed to affect the power of Saving of power of Government to appoint Local Committees for schools, dispensaries, &c. Government to appoint Local Committees for the management of Schools, Dispensaries, and other institutions maintained or aided out of the funds raised under this Act; provided that such Committees shall act in subordination to the Commissioners under such rules as the Governor in Council shall prescribe.

36. All sums collected under this Act, and all funds appropriated by Government for the purposes of this Act, shall be paid into the nearest Disposal of sums collected. Government Treasury of the District, or, with the sanction of Government, into any Branch of the Bank of Madras which may be established in or near to the Town, and shall be credited to an account to be called the Municipal Fund of the Town where they have been raised. Provided always that it shall be competent to the Commissioners, with the sanction of Government, to invest any sums not required for immediate use, either in the Government Savings' Bank or in

Government

Government Securities, or in any other form of security which may be approved of by Government.

37. All orders for payment of money from the Municipal Fund shall be Mode of drawing money. signed by the President, or, in his absence, by the Vice-President, or, in the absence of the Vice-President, by any two of the Commissioners.

RATES, TAXES, TOLLS, AND FEES LEVIABLE UNDER THIS ACT.

38. It shall be lawful for the Commissioners, with the approval of the Rates, taxes, tolls, and fees leviable. Governor in Council, to levy, for the purposes of this Act, rates and taxes, which may consist of a rate on houses, buildings, and lands, according to the annual value thereof; or of a tax upon arts, professions, trades, and callings; or of taxes on carriages, horses, and other animals as described in Schedule C to this Act annexed; or of fees on the registration of carts; or of a toll upon carriages, carts, and animals entering the Municipal limits. It shall be lawful for the Commissioners, with the approval of the Governor in Council, to raise the Funds required for the purposes of this Act, from all or any one or more of the above sources as they shall decide. And the Commissioners may exempt, in whole or in part, from the payment of any rate or tax under this Act, any person who, by reason of poverty, may be unable to pay the same, and, with the sanction of the Government, may exempt from the payment of any rate or tax any class of persons whom the said Commissioners may deem it expedient to exempt from such payment.

39. No tax, rate, toll, fee, or assessment shall be payable under this Act for No tax for period for which payment has been made under Acts X of 1865, VI of 1863, and III of 1866. any period for which payment shall have been made on the same account under Madras Act X of 1865, or on account of any rate or cess under Madras Acts VI of 1863 and III of 1866, respectively.

RATES TO BE LEVIED ON HOUSES, BUILDINGS, AND LANDS, UNDER THIS ACT.

40. If it shall be determined by the Commissioners, with the approval of the Rates on houses, &c., to be levied as provided for. Governor in Council, to levy, for the purposes of this Act, rates on houses, buildings, and lands, according to the annual value thereof, such rates shall be levied as provided in Sections 41 to 56 of this Act.

41. The annual rate shall be imposed by assessing a percentage which shall Rates on houses, &c., how to be levied. not exceed seven and a half per centum on the annual rent for which the houses, buildings, and lands liable to the rate might reasonably be expected to be let; Provided that it shall be at the option of the Commissioners, in lieu of such rate, to levy upon any lands unappropriated to any building

ing or premises, or upon any native huts with their appurtenances, a fixed annual rate not exceeding Rupees four for every eighty square yards occupied by them respectively. Any rate levied under this Section shall be due and payable by the owner of the said houses, buildings, and lands respectively, from and after the end of the first quarter of the official year. The Commissioners shall exempt from assessment any house, building, or land, the annual value whereof is less than six Rupees, if the same be the sole rateable property of the owner. No building ordinarily used as a place of public worship, or as a public choultry, hospital, or dispensary, and no building exclusively used for charitable purposes, shall be liable to any rate.

42. The annual value at which lands, houses, buildings, or huts, are to be assessed, shall be fixed by the Commissioners; and such lands, houses, buildings, and huts shall be assessed upon the value so fixed. Provided that the value of a house or building so fixed shall not include the value of any machinery or furniture contained therein.

43. The annual value assessed by the Commissioners as hereinbefore provided, shall be entered in a book to be kept at the Office of the Commissioners, wherein shall also be written in distinct columns the name of the owner of the property, or, if the occupier, and not the owner, is the person liable to pay the rate, the name of the occupier, the designation of the property, either by name or number, sufficient to identify the same, together with the name of the street or division in which such property is situate, and the amount of the rate assessed thereon.

44. The annual value at which lands, houses, buildings, or huts, are assessed at the date of this Act coming into operation, shall stand as entered in the book kept at the Office of the Commissioners under (Madras) Act X of 1865, and shall be taken to be the first valuation made under this Act, until such time as the Commissioners shall have caused a new valuation to be made under Section 42 of this Act.

45. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said book, and also in any notice or other proceeding under this Act, as the "owner" or the "occupier" of the property on which the rate is assessed, without further description.

46. The Commissioners may require the respective owners or occupiers of houses, buildings, or lands, to furnish them with returns of the measurements and of the rent or annual value thereof; and they, or any person appointed by them for that purpose, at any time between

between sunrise and sunset, may enter, inspect, and measure any such houses, buildings, or lands, after having given forty-eight hours' previous notice of their intention to the occupier thereof. When the valuation of the houses, buildings, or lands shall have been completed, the Commissioners shall cause lists, containing the valuation and rate assessed, to be made out, and shall give public notice thereof, and of the place where the lists or copies thereof may be inspected; and every person claiming to be the owner or occupier of property included in the assessment, or the agent of such person, shall be at liberty to inspect such lists, and to make extracts therefrom, without the payment of any fee.

47. The Commissioners shall, at the same time, give public notice of a day and hour, not being less than one month from the publication of such notice, when they will proceed to revise the said valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment is increased, shall give special notice thereof to the owners or occupiers of such property. All appeals against such valuation and assessment shall be made at or before the time fixed in the notice.

48. After the appeals have been inquired into, and after the revision of the valuation and assessment has been completed, the amendments made in the lists shall be authenticated by the signature of not less than two of the Commissioners, who shall, at the same time, certify under their signatures that no valid objection has been made to the valuation and assessment in the said lists, except in the cases in which amendments have been made as shown therein, and, subject to such amendments as may thereafter be duly made, the rate so assessed shall be deemed to be the rate for the whole year for which the assessment shall be made. Provided always, that the President or Vice-President may, at any time, amend the said lists by inserting therein the name of any person whose name ought to be so inserted, or by inserting any property liable to the rate, after giving notice to such person as may be interested in the making of the amendment, of a day, not being less than fifteen days from the date of the service of such notice, when such amendment is to be made; and, in all cases in which any property is inserted as liable to the rate, the amendment shall be considered to have been made at the expiration of fifteen days from the time when the person interested first received notice thereof: and any person interested in such amendment may appeal to the said Commissioners, by application in writing left at their Office three days before the day fixed in the notice for such amendment.

49. It

49. It shall not be necessary to prepare new lists or to fix the percentage of annual rate every year; but the Commissioners may adopt the annual rate and the valuation and assessment contained in the lists for the preceding year (with such alterations as may, in particular cases, be deemed necessary), as the annual rate, valuation, and assessment for the year following. Provided that public notice of such valuation and assessment shall be given in the manner prescribed in Section 47 of this Act.

50. When any house shall have been vacant for sixty or more consecutive days during any year, the Commissioner shall remit so much of the rate of that year as may be proportionate to the number of days the said house may have remained unoccupied; provided that the owner of such house, or his agent, shall have given to the Commissioners notice in writing of the vacancy thereof, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

51. When any sum is due for or on account of any rate or tax leviable under Sections 41 to 47 of this Act, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the amount. Such bill shall contain a statement of the period and a description of the property for which the charge is made.

52. If the bill be not paid by the person liable to pay the same within ten days from the presentation thereof, the Commissioners may cause to be served upon such person a notice of demand in form No. 1 in Schedule A.I to this Act annexed, or to the like effect; and, if such person shall not, within seven days from the service of such notice of demand, pay the sum due or show sufficient cause for non-payment of the same, such sum, with all costs, may be levied by distress and sale of the moveable property, wherever found within the limits of the Municipality, of the defaulter, under a warrant in form No. 2 in Schedule A. I to this Act annexed, or to the like effect, to be issued for that purpose by the Commissioners. For every notice of demand under this Section, which the Commissioners shall cause to be served upon any person, a fee not exceeding one Rupee, the amount of which shall be fixed by the Commissioners, shall be paid by such person. Such fee shall be added to the amount of the rate or rent in respect of which the notice is given, and, if not duly paid, shall be levied in the same manner as such rate, rent, or tax may be levied.

53. If

53. If the sum due on account of any rate, from the owner of any house, building, or land, remains unpaid, after notice of demand has been duly served, the Commissioners may demand the amount from the occupier for the time being of such house, building, or land, and, on non-payment thereof, may recover the same by distress and sale of any goods and chattels found on the premises; and, in such case, the occupier may deduct from the next and the following payments of his rent, the amount which may be so paid by or recovered from him.

54. The Officer charged with the execution of the warrant of distress shall make an inventory of the property seized under such warrant, and shall, at the same time, give a notice in writing, in form No. 3 in Schedule A.I to this Act annexed, to the person in possession thereof at the time of the seizure, that the said property will be sold as therein mentioned.

55. If the warrant is not discharged or suspended by the Commissioners, the property seized shall be sold under their orders, and they shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said warrant and costs, and of all expenses of and incident to the custody of the property; and the surplus (if any) shall be returned on demand, if made within twelve months from the date of sale, but not otherwise, to the person in possession of the property at the time of the seizure. Any balance remaining unclaimed at the end of twelve months shall be paid to the credit of the Municipal Fund. The fees payable upon distraints under this Act shall be such as are set forth in the Table of Fees in Schedule A. to this Act annexed.

56. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the notice, schedule, summons, notice of demand, warrant of distress, inventory, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any Court of competent jurisdiction.

TAX ON ARTS, PROFESSIONS, TRADES, AND CALLINGS.

57. If it shall be determined by the Commissioners, with the approval of the Governor in Council, to levy, for the purposes of this Act, a tax on arts, professions, trades, and callings, such tax shall be levied as provided in Sections 58 to 61 of this Act.

58. Every

58. Every person, who shall within the Town exercise any of the arts, professions, trades, or callings specified in Schedule B to this Act annexed, shall cause his name to be registered in the office of the Commissioners not less than thirty days before the expiration of the current official year, and shall take out a certificate of such registration, and shall pay, in respect thereof, the rates mentioned in the said Schedule B. Such annual sum shall be payable in two equal half-yearly instalments, of which the first shall be payable on or before the 1st day of the official year, and the second on or before the 1st day of the half-year next succeeding.

Persons exercising certain professions, trades, and callings, in the town, to pay a tax in respect thereof.

Provido. Provided that no person who shall prove that he has paid the tax prescribed in this section in any one Municipality, shall be required to pay the same for the same half-year in any other Municipality, unless it shall appear that he has exercised in both Municipalities within the same half-year the art, profession, trade, or calling in respect of which he has been taxed.

59. The Commissioners shall determine under which of the classes mentioned in Schedule B to this Act annexed, every person liable to be taxed as aforesaid shall be assessed, and shall, from time to time, declare what are to be considered bazaars or public markets within the meaning of this Act.

Commissioners to classify all persons liable by this Act to be taxed.

60. A person who carries on several kinds of business, and may come under more than one of the designations in Schedule B, shall be chargeable only under one of such designations, at the discretion of the Commissioners.

Persons chargeable under designation only.

61. On or about the first day of each official year, the Commissioners shall prepare a list of the persons to be taxed under this Act for the year then commencing, which list shall state the profession, trade, or calling of each of the persons therein named, the class under which he is assessed, and the sum payable by him; and such list shall be filed in the Office of the said Commissioners, and shall be open to public inspection at all reasonable times, and notice in writing shall be given to each person assessed of the class under which he is assessed and of the amount payable by him in respect of such assessment; and he shall be at liberty to appeal against such assessment to the Commissioners, and written notice of appeal shall be left at the office of the Commissioners within one week after notice of assessment has been received, and such appeal shall be finally determined by the Commissioners at their next Meeting, or at such other time as they may signify to the appellant as the time at which such appeal will be heard: provided that it shall

Commissioners to prepare a list of all persons to be taxed under this Act.

Appeal.

shall be competent to the Commissioners to revise the list at any time in the course of the year.

62. If any person who has received notice of assessment as aforesaid shall exercise his art, profession, trade, or calling, for the space of two months in any one official year, without having paid the tax in respect thereof as required by Section 58, he shall be liable, on conviction before a Magistrate, to pay the full amount of his assessment and a further penalty not exceeding twice the amount which would have been payable by such person in respect of such tax for the entire year; and the Commissioners shall thereupon register his name in their office and shall grant him a certificate of such registration.

Penalty for trading without having paid the trade tax.

TAXES ON CARRIAGES, HORSES, AND OTHER ANIMALS.

63. If it shall be determined by the Commissioners, with the approval of the Government, to levy, for the purposes of this Act, taxes on carriages, horses, and other animals, such taxes shall be levied as provided in Sections 64 to 72 of this Act.

Taxes on carriages, &c., to be levied as provided for.

64. A tax, at a rate not exceeding the rates specified in Schedule C to this Act annexed, shall be imposed upon every carriage, horse, ass, dog, bull, bullock, male buffaloe, camel and elephant, kept within the Town, and shall be payable in advance. Provided that this Section shall not apply to, or include carriages, horses, or other animals the property of the Municipal Corporation, or vehicles kept for sale and not used for any other purpose, if the property of, and kept by, *bona fide* dealers in such vehicles.

Taxes on carriages, horses, &c.

Exemption from tax on carriages and animals.

65. The owner or person having the charge of every carriage, horse, ass, dog, bull, bullock, male buffaloe, camel, or elephant, kept within the town, shall, within one month from the date on which the approval of the Government in Section 63 mentioned, shall have been notified in the District Gazette, and thenceforward, within thirty days from the first day of the official year and the first day of the next succeeding half-year, send to the office of the Commissioners a statement in writing signed by him, containing a description of the vehicles and animals liable to the tax, for which he desires to take out a license. The owner shall, at the same time, pay to the Commissioners the half-yearly taxes payable by him, according to the rates given in Schedule C to this Act annexed. Any person becoming possessed, between the first day of the official year and the first day of the next succeeding half-year, or between such last mentioned day and the first day of the next official year, of a carriage or animal so kept, shall, within thirty days of becoming so possessed, send to the office of the Commis-

Owners of carriages, &c., to take out license.

sioners

sioners a similar statement, together with the full amount payable for the then current half-year according to the said Schedule. Provided always that no person shall be liable to be taxed under this Section for any carriage or animal which shall have been in his possession for thirty days only, or any less period, in any half-year.

66. On receiving the amount of the taxes as aforesaid, the Commissioners, or On payment of the tax, a license to be given. some person duly authorized by them in that behalf, shall give to the person paying the same a license for each of the vehicles and animals for the period in respect of which the money is received. The owner of every carriage and animal aforesaid, who shall have received a license for the same, shall, at all reasonable times, during the said period, be bound, under a penalty in default thereof not exceeding five Rupees, to produce such license when called upon to do so by the Commissioners or any person duly authorized in writing by them to demand its production.

67. If the owner or person having the charge of any carriage or animal so kept as aforesaid shall not have duly taken out a license under Penalty for keeping a carriage, &c., without having a license. the last preceding Section, he shall, on conviction before a Magistrate, be fined the full amount payable by him in respect of such carriage or animal, and such further sum not exceeding twenty Rupees as the Magistrate may direct; and the Commissioners shall thereupon give him a license for the vehicles and animals in respect of which he has been fined as aforesaid.

68. All carriages kept for the purpose of being let out for hire, by the day or trip, shall bear a registration number in such manner as the Carriages kept for hire to bear a registration number. Commissioners shall direct; and any owner of such carriage, who shall fail to affix the registration number assigned to such carriage, shall be liable to a fine not exceeding ten Rupees.

69. The Commissioners, at their discretion, may compound for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages or animals aforesaid, for hire, for a certain sum to be paid for all the carriages or animals so kept by such persons, in lieu of the taxes specified in Schedule C. And, if any person, having so compounded, shall refuse to pay the sum compounded for, on the written demand of the Commissioners, such person shall, on conviction before a Magistrate, be liable to a fine not exceeding three times the amount so payable.

70. Whenever the owner of a carriage or animal, as aforesaid, kept for the Carriages, &c., within the Town, although owned by persons not residing therein, liable to the tax. time being in premises situated within the Town, shall not reside in the Town, the tax due for such carriage or animal shall be recoverable from the person in whose premises it is for the time being kept.

71. The

71. The Commissioners shall, from time to time, cause to be prepared and entered in distinct columns, in a book to be kept at the Office List of persons licensed under Section 66 to be entered in a book. of the Commissioners, and to be open to the inspection of any person who shall apply for leave to inspect the same, a list of the persons who, during the then current period of six months, shall have received a license under Section 66 of this Act, and of the vehicles and animals in respect of which they may have paid.

72. It shall be lawful for the Commissioners, or any persons authorized by Power to enter premises. them in writing for that purpose, at any time between sunrise and sunset, to enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any vehicle or animal liable to taxation under Section 64 of this Act, for which a license has not been duly taken out; and the Commissioners may summon any person whom they have reason to believe to be liable to the payment of any tax under the last mentioned section or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses, or other animals, in respect of which such person is liable to be taxed. Whoever being so summoned shall, without lawful excuse, fail to appear in pursuance of the summons, and whoever hinders or obstructs the Commissioners, or any person authorized by them in writing as aforesaid, from or in entering or inspecting any such stable, coach-house, or place, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty Rupees.

REGISTRATION OF CARTS AND OTHER VEHICLES WITHOUT SPRINGS.

73. If it shall be determined by the Commissioners, with the approval of the Registration of carts, &c., to be made as provided for. Government, to levy, for the purposes of this Act, fees for the registration of carts and other wheeled vehicles without springs, such registration shall be made and fees levied as provided in Sections 74 to 76 of this Act.

74. Every cart and other wheeled vehicle without springs kept within the Registry and numbering of carts, &c. town, shall be registered in the Office of the Commissioners with the name and residence of the owner, and shall bear the number of such registration in such manner as the Commissioners shall direct. Provided that this Section shall not apply to, or include conservancy carts or other such vehicles belonging to the Municipal Corporation.

75. The registration of carts and other vehicles under the last preceding Fee for registration. Section, shall be made, and the numbers assigned half-yearly, upon such days as the Commissioners shall notify; and such fee,

fee, as they shall fix, not exceeding two Rupees, shall be paid for each registration. Any person becoming possessed, between the first day of the official year and the first day of the next succeeding half-year, or between such last mentioned day and the first day of the next official year, of any such cart or other vehicle which has not been registered for the then current half-year, shall, within fifteen days of becoming so possessed register the same; and the Commissioners shall grant registration in every such case, on payment of the fee for the current half-year. When any registered cart or other vehicle is transferred within any half-year, it shall be registered a new in the name of the person to whom it has been transferred; and all fee, not exceeding four Annas, shall be paid for every such last-mentioned registration. The register of carts, and other wheeled vehicles without springs, shall be open to public inspection at all reasonable times without charge.

76. Whoever owns or keeps any cart, or other wheeled vehicle not on springs, required by this Act to be registered, without having caused the same to be registered under the last preceding Section, or shall fail to affix thereto the registration number prescribed in Section 74, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten Rupees; and the Commissioners, or any officer duly authorized by them, may seize, or cause to be seized, any such cart, or other vehicle (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the horses, bullocks, or other animals drawing the same, and may detain them; and all Police Officers are hereby required, on the application of the Commissioners or other officer as aforesaid, to seize and detain the same. If the person owning or keeping such cart, or other vehicle, shall be convicted before a Magistrate under this Section, and ordered to pay a fine, and if the fine be not paid or if the vehicle seized be not claimed within ten days, such vehicle, together with the animals seized with it (if any), may be sold by auction by order of the Commissioners, and the proceeds applied to the payment of the fine and to the costs and charges incurred on account of the seizure, detention, and sale; and the surplus (if any), if not claimed by the owner or the person keeping such cart or other vehicle within a further period of sixty days, shall be credited to the Municipal Fund.

TOLLS PAYABLE FOR CARRIAGES AND OTHER VEHICLES, AND FOR ANIMALS ENTERING THE TOWN.

77. If it shall be determined by the Commissioners, with the approval of the Governor in Council, to levy, for the purposes of this Act, tolls on carriages, carts, and animals entering the Municipal limits, such tolls shall be levied as provided in Sections 78 to 84 of this Act.

78. Tolls

78. Tolls, not exceeding the rates mentioned in Schedule D annexed to this Act, shall be levied upon all carriages, carts, and animals entering the Municipal limits; and the Commissioners may construct toll-bars, gates, and gate-keepers' stations, and may place the collection of such tolls under the management of such persons as may appear to them proper, or may lease out the same, and shall frame Bye-Laws, in manner hereinafter provided, for the guidance of such toll collectors; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would attach to them if employed in the collection of any assessment or tax under this Act. Provided that this Section shall not apply to carriages, carts, and animals licensed or registered by the Commissioners. Provided also that no more than one payment of toll shall be demanded for, and in respect of, any carriage, cart, or animal, in any one period of twenty-four hours counted from midnight to midnight.

79. In case of non-payment of any such toll on demand, the Officer appointed or duly authorized to collect the same may seize any carriage, or animal, on which it is chargeable, or any part of its burden of sufficient value to defray the toll. If any toll, together with the cost arising from such seizure and custody, remains undischarged for forty-eight hours, the Commissioners may sell the property seized, for discharge of the toll and of all expenses occasioned by such non-payment, seizure, custody, and sale. Any balance that may remain shall be returned, on demand, if made within twelve months, to the owner of the property, and, if unclaimed after such period, shall be credited to the Municipal Fund. After seizure of the property as aforesaid, the Commissioners shall forthwith issue a notice in writing that, after the expiration of two days, exclusive of Sunday, they will sell, at such place as they may state in the notice, the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender to the Commissioners, or other Officer appointed by them, the amount of all the expenses incurred and of the toll payable by him, the Commissioners shall forthwith release the property seized.

80. No tolls shall be paid for the passage of Troops on their march, or of Military or Government stores, or of Military or Police Officers on duty, or of any person or property in their custody, or of conservancy carts or other such vehicles belonging to the Municipal Corporation; but no other exemption from payment of the tolls levied under this Act shall be allowed.

81. It

81. It shall be lawful for the Commissioners to compound with persons living outside the Municipal limits for a sum to be paid annually or half-yearly, in lieu of all tolls payable under the provisions of this Act in respect of carriages, carts, or animals entering the Municipal limits; and the Commissioners shall issue licenses for such carriages, carts, or animals; and, while such licenses shall remain in force, such carriages, carts, and animals shall be exempt from all tolls, as aforesaid, upon entering the Municipal limits: provided always that such composition shall include all the carriages, carts, and animals possessed by the person compounding.

82. In all cases of resistance to the lawful authority of the toll collectors, all Police Officers shall be bound to assist the toll collectors, when required; and, for that purpose, shall have the same power which they have in the exercise of their ordinary Police duties.

83. Every person, other than persons appointed or duly authorized to collect the tolls under this Act, who shall levy or demand any toll, and also every person who shall unlawfully and extortionately demand or take any other or higher toll than the lawful toll, or, under color of this Act, seize or sell any property, knowing such seizure and sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under color of this Act, shall be deemed to have committed the offence of cheating, or extortion, as the case may be, and shall be liable to such punishment as is prescribed for those offences respectively by the Indian Penal Code.

84. A table of the tolls authorized to be taken at any toll-gate or station, legibly written or painted in English words and figures, and in the vernacular language or languages of the District, shall be put up in a conspicuous place near such gate or station.

APPEALS.

85. Appeals against any rate, tax, or fee, assessed or levied under this Act, shall be heard and determined by not less than three Commissioners, of whom the President or the Vice-President shall be one; and their adjudication, and the assessment, by the Commissioners, of any rate, when no appeal is made, as hereinbefore provided, shall be final. And no person shall contest any assessment in any other manner than by appeal, as hereinbefore provided.

86. No

86. No appeal shall lie against any assessment on any land, house, or building, unless it be preferred within one month after public Notification of the assessment, as provided in Section 47 of this Act, or within one month after service of the special notice directed in the same Section. And no appeal against any tax or registration fee shall lie, unless preferred within one month from the time of such tax being charged. Provided that no appeal shall be entertained, unless the amount of such assessment, tax, or fee shall be deposited with the Commissioners on or before the day on which such appeal shall be lodged.

87. No assessment, and no charge or demand of rate, tax, or fee made under the authority of this Act, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate, tax, or fee, or in the description of any property or thing liable to the rate, tax, or fee, or any mistake in the amount of assessment, provided that the directions of this Act be, in substance and effect, complied with.

REGISTRATION OF BIRTHS AND DEATHS.

88. The Commissioners shall keep in their Office a Register of all Births and Deaths in the Town, and for this purpose they may divide the Town into such and so many Districts as they shall think fit, and shall appoint a person to be Registrar of Births and Deaths within the Town; or, in case of the division of the Town into Districts, for every such District they shall appoint a person to be Registrar of Births and Deaths within such District.

89. Every Registrar shall reside within the Town or District of which he is Registrar, and shall cause his name, with the addition of Registrar of Births and Deaths, or the Town or District for which he shall be so appointed, to be placed in some conspicuous place on or near the outer door of his own dwelling house; and the Commissioners shall cause to be printed and published a list containing the name and abode of every such Registrar in the Town.

90. The Commissioners shall cause to be prepared and printed a sufficient number of Register Books for making entries of all births and deaths which may take place within the Town, according to such forms and instructions as may from time to time be prescribed by the Governor in Council, and published in the Fort St. George and District Gazettes. Extracts from the Register shall be furnished at such times and to such Officers as the said Governor in Council may appoint.

91. Every

91. Every Registrar shall inform himself carefully of every birth and death which may happen in his Town or District after this Act comes into operation, and shall learn and register, as soon as conveniently may be after the event, the particulars required to be registered, according to the forms prescribed as aforesaid, touching every such birth and death, as the case may be, which shall not have been already registered.

92. The father or mother of every child born in the Town, or, in case of the death, illness, absence, or inability of the father or mother, some person who was present at or in attendance during the child-birth, shall, within twenty days next after the day of every such birth, give information to the Registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

93. Some one of the persons present at the death, or in attendance during the last illness, of every person dying in the Town, or, in case of the death, illness, inability, or default of all such persons, the occupier of the building or tenement, or, in case the occupier be the person who shall have died, some inmate of the building or tenement in which such death shall have happened, shall, within twenty days next after the day of such death, give information to the Registrar, according to the best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person. It shall also be the duty of every person who is conducting or performing the funeral ceremonies of any person who has died within the Town, when required, to furnish to the Registrar, or to any person authorized by him, such information as he may possess, touching the said several particulars.

94. Any person whose duty it shall be to give information to a Registrar under the two preceding Sections, who shall refuse or neglect to give such information, shall be liable to a penalty not exceeding twenty Rupees for each offence.

95. Every person by whom the information contained in any register of births, or deaths, under this Act, shall have been given, shall, if he can write, sign in the register his name, description, and place of abode, or, if he cannot write, shall put his mark in the register to his name, description, and place of abode.

GENERAL

GENERAL CONSERVANCY CLAUSES.

96. The Commissioners shall provide all cattle, carts, and implements required for the removal of night-soil, dung, and other filth, and shall, from time to time, appoint or provide places convenient for the deposit of such night-soil, dung, and other filth, and for keeping all cattle, carts, and implements required for the removal thereof, and for other purposes of conservancy.

97. It shall be the duty of the occupier of every house within the limits of any Town to which this Act shall be applied, to remove from his premises all night-soil, dung, and other filth into carts provided by the Commissioners for the purpose of carrying away the same, and at such times and in such manner as the Commissioners may direct. Provided that if the occupier of any house shall prefer to carry away the said night-soil, dung, or other filth, it shall be open to him to do so in conformity with the provisions of Section 102 of this Act.

98. All dirt, ashes, rubbish, sewage, soil, dung, and filth, collected by the Commissioners from the streets, houses, privies, sewers, and cess-pools, shall be held to be the property of the said Commissioners, who shall have power to sell and dispose of the same; and the money arising from the sale thereof shall form part of the Municipal Fund.

99. The Commissioners may cause any number of moveable or fixed dust boxes, or other convenient receptacles wherein dust and rubbish may be temporarily deposited until removed and carried away, to be provided and placed in convenient situations, and may require the occupiers of houses in streets to cause all such matter as aforesaid to be deposited daily, or otherwise periodically, in the said receptacles. Every person, who, after such receptacles have been provided, and after such requisition, shall deposit or cause to be deposited any such matter in any street except in such receptacles, shall be liable to a penalty not exceeding ten Rupees for each offence.

100. Whoever commits a nuisance, or deposits, or permits his servants to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthenware, broken brick, mortar or other rubbish, in any street or on the pavement, pial, or verandah of any house, or on any ground between the house and the street, or on any public quay, jetty, or landing place, or on any part of a river bank, whether above or below high water mark, except in such places and in

such

such manner and at such hours as shall be fixed by the Commissioners, shall be liable to a penalty not exceeding ten Rupees for each offence.

101. Whoever allows any offensive matter from any privy or cess-pool to run, drain, or be thrown into a surface drain in any street, shall be liable to a penalty not exceeding ten Rupees for each offence.

Allowing sewage to flow on streets.

102. The Commissioners shall, from time to time, fix the hours within which it shall be lawful to remove night-soil or other such offensive matter, and the manner in which such night-soil or other offensive matter shall be removed. And after notification of the manner and time of such removal, any person who shall not conform to such notification, shall be liable to a penalty not exceeding ten Rupees for each offence.

Removal of night-soil.

103. Whoever being the occupier of a house within the limits of any town, keeps or allows to be kept for more than twenty-four hours or otherwise than in some proper receptacle, any dirt, dung, night-soil, filth, or any noxious or offensive matter, in or upon the roof of such house, or in or upon the roof of any out-house, or in any yard, or ground attached to, and occupied by the occupier of, such house, shall be liable to a penalty not exceeding ten Rupees for each offence.

Penalty on occupier of a house not removing filth.

104. Whoever being the owner or occupier of any house, building, or land within any Town, whether tenantable or otherwise, suffers the same to be in a filthy or unwholesome state, shall be liable to a penalty not exceeding ten Rupees, and to a further penalty not exceeding ten Rupees for every day after conviction for such offence during which the offence is continued.

Filthy houses.

105. The Commissioners shall provide and maintain, in sufficient numbers and in proper situations, common privies and urinals, and shall cause the same to be kept in proper order and to be daily cleansed.

Common necessities.

106. It shall also be lawful for the Commissioners to grant to such persons and for such period as they think fit, licenses to keep privies for public accommodation, subject to such conditions as may be necessary for the preservation of public health and decency. Any such person holding such license and failing to observe the conditions prescribed in such license, shall be liable to a fine not exceeding fifty Rupees. Provided that it shall be lawful for the Commissioners, at any time, on giving one month's notice in writing to cancel any license granted under this Section.

Licensed public necessities.

107. I

107. It shall be lawful for the Commissioners to prescribe the form or construction of privy which the owner or occupier of any house or building within the limits of the town may have on his premises; and such owner or occupier shall have such privy shut out by a wall or fence from the view of persons passing by or residing in the neighbourhood; and any such owner or occupier having a privy constructed in a form different from that prescribed by the Commissioners, or failing to shut it out from public view in the manner hereinbefore directed, shall be liable to a fine not exceeding ten Rupees, and to a further fine not exceeding ten Rupees a day for each day of default or breach of the provisions of this section after written notice duly given by the Commissioners to such owner or occupier.

Construction of privy.

108. All public sewers, drains, and other works for conservancy existing in any Town at the time this Act comes into operation, or which may afterwards be made, shall be under the direction and control of the Commissioners.

Sewers and drains, &c., under control of the Commissioners.

109. All public sewers, or other works for the improvement or the conservancy hereafter required in any Town, shall be constructed under the direction of the Commissioners, who shall be empowered to purchase any land necessary for such purposes from funds at their disposal; or such land shall, if necessary, be taken under the sanction of Government, under the provisions of any Act heretofore passed, or which shall hereafter be passed, for the acquisition of land for public purposes.

Sewers, &c., to be constructed under the direction of the Commissioners.

110. All branch drains, and all privies and cess-pools within any Town, shall be under the survey and control of the Commissioners, and shall be repaired, and made efficient at the cost of the owners of the lands and buildings to which the same belong. If any such owner neglect, during eight days after notice in writing, to repair and make the same efficient in such manner as may be required by the Commissioners, the Commissioners shall cause such drain, privy, or cess-pool, to be made efficient or if necessary removed, and the expense of such removal or repair shall be paid by the owner or occupier so making default, and shall be recoverable as a debt due to the Commissioners.

Branch drains, privies, &c., under control of Commissioners.

111. If any such drain, privy, or cess-pool is constructed, after the passing of this Act, contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or if any person, without the consent of the Commissioners, constructs, re-builds, or unstops any drain, privy, or cess-pool, which has been ordered

Penalty for making drains, &c., contrary to Commissioners' orders.

ordered by them to be demolished or stopped up, or not to be made, every person so doing shall be liable to a penalty not exceeding fifty Rupees. And the Commissioners may cause such drain, privy, or cess-pool to be removed, or may cause such amendment or alteration to be made therein as they think fit; and the expense thereof shall be paid by the person by whom such drain, privy, or cess-pool was improperly constructed, re-built, or unstopped, and shall be recoverable as a debt due to the Commissioners.

112. Whoever throws or puts, or permits his servants to throw or put any Throwing rubbish into earth, dirt, or other filth, rubbish, or night-soil into any sewers. sewer not specially appropriated for such purpose, by the Commissioners, shall be liable to a penalty not exceeding ten Rupees for each offence.

113. The Commissioners or any Officer appointed by them for that purpose, Inspection of drains, privies, and cess-pools. may inspect all privies, drains, and cess-pools, within any Town at any time between sun-rise and sun-set, after six hours' notice in writing to the occupier of any premises in which such privies, drains, or cess-pools are situated, and may, if necessary, cause the ground to be opened where they or he think fit for the purpose of preventing or removing any nuisance arising from such privies, drains, or cess-pools.

114. All public streams, channels, water-courses, tanks, All public streams, &c., to be under direction and control of the Commissioners. reservoirs, springs, and wells, in any Town shall, for the purpose of this Act, be under the direction and control of the Commissioners.

115. The Commissioners shall have power to set apart a sufficient number of Bathing places, &c. convenient tanks, or parts of rivers, streams, or channels not being private property, for the inhabitants to bathe in, and also to set apart tanks or other places for washing animals or clothes, or for any other purpose connected with the health, cleanliness, or comfort of the inhabitants.

116. Whoever, except as permitted by the Commissioners, bathes in any Fouling water by bathing, &c. public stream, channel, water-course, tank, reservoir, spring, or well, or in any other manner fouls the water thereof, shall be liable to a fine not exceeding ten Rupees for each offence.

117. It shall be lawful for the Commissioners to require, by notice in writing, Power to require unwholesome tanks on private premises to be cleansed or drained. the owner of any premises to cleanse any private tank, and to drain off and remove any waste or stagnant water within any such premises which may appear to be injurious to health

or

or offensive to the neighbourhood; and if such owner refuse or neglect to comply with such requisition during eight days from the service thereof, the Commissioners, their officers and workmen, may enter such premises, and do all such necessary acts for all or any of the purposes aforesaid as they shall think fit; and the expense incurred thereby shall be paid by the owner of such premises so making default, and shall be recoverable as a debt due to the Commissioners.

118. The Commissioners shall, from time to time, as they think fit, cleanse, fill Stagnant pools in open places. up, or drain all receptacles of stagnant water, not being within any private enclosure, which shall appear to them likely to prove injurious to the health of the inhabitants, whether such receptacles be the private property of any person, or otherwise.

119. If any house or other building, tank, well, or hole or other place, whether Dangerous places to be repaired or enclosed. on public or private ground, be, for want of sufficient repair or protection, dangerous to human beings, the Commissioners shall cause notice in writing to be given to the owner, if he be known and resident within the limits of their jurisdiction, and also to the occupier of the premises, if any, and shall also cause notice to be put on some conspicuous part of such premises, requiring the owner, or occupier, if any, forthwith to take down, secure, repair, or protect such building, tank, well, or hole, or other dangerous place; and, if such owner or occupier do not, within three days after such notice, begin to comply with the requisition, and do not carry on the work to the satisfaction of the Commissioners, they may cause the same to be taken down, secured, repaired, or protected, so as to prevent danger therefrom; and the expense of such work shall be paid by the owner or occupier of such property so making default, and shall be recoverable as a debt due to the Commissioners.

120. If, in any street, any house, building, or wall, or any thing affixed Houses, &c., in a ruinous or dangerous state. thereon, be deemed by the Commissioners to be in a ruinous state or likely to fall, or in any way dangerous, they shall forthwith give notice in writing to the owner, if he be known and resident within the limits of their jurisdiction, and also to the occupier thereof, if any, requiring such owner or occupier to take down or secure the same within a fixed time; and, in default, the Commissioners shall cause such repairs to be made or such buildings to be removed; and the expense thereby incurred shall be paid by the owner of the premises so making default, and shall be recoverable as a debt due to the Commissioners.

121. Whenever,

121. Whenever, under the provisions of this Act, any work is required by the Commissioners to be executed, or any alterations or improvements to be made in any building, premises, or place, and such work, alterations, or improvements are executed by the occupier of such house, place, or premises, or by the Commissioners, at his expense, the cost thereof may be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction. Provided always, that in case the occupier has a beneficial interest in such building, premises, or place, he shall deduct or recover such sum only as will bear the same proportion to the entire cost of such work, alteration, or improvement, as the value of the owner's interest bears to the value of the joint interest of him and the occupier. And provided also, that in case the rents issuing out of any such building, premises or place belong to more persons than one, who are entitled to the same, either as being joint proprietors of such building, premises or place, or as having intermediate and other interests therein, the cost of any work, alteration or improvement as aforesaid, payable by the owner, shall be borne by such persons in proportion to their respective interests, and any one of more of such persons, who may have been compelled to pay more than a just proportion in the first instance, shall have like remedies against the others, for enforcing contribution by them, as are hereby given to the occupier as against the owner.

122. The materials of any such house, building, wall, or other structure or any part of the same which may be pulled down as provided in Section 120, may be sold by the Commissioners, and the proceeds of such sale applied to the payment of the expenses incurred. Any overplus of such sale shall, on demand, be restored to the owner of such house, building, or wall, and, if unclaimed, shall, after the lapse of twelve months, be carried to the credit of the Municipal Fund.

123. No person shall slaughter any animal for sale within any town unless in a place specially licensed or provided for that purpose by the Commissioners; and whoever slaughters any animal for sale within any town in any place not so licensed or provided, shall be liable to a penalty not exceeding Rupees ten for each offence.

124. The Commissioners may, from time to time, provide places for the purpose of being used as markets and slaughter-houses, and may levy fees for the use of such markets and slaughter-houses.

125. After

125. After the passing of this Act no new market shall be opened in any Town without the license, in writing, of the Commissioners; and every person who opens a new market without such license shall be liable to a penalty not exceeding Rupees ten for each day that such new market is opened or used.

126. It shall be lawful for the Commissioners to provide for the inspection of all markets and slaughter-houses within any Town.

127. It shall be lawful for the Commissioners, or for any person appointed by them for that purpose, at all reasonable times to enter into and inspect any market, building, shop, stall, or place used for the sale of any drink, or of butcher's meat, poultry, fish, vegetables, or other articles of food, and, if it appears that any such drink, meat, poultry, fish, vegetables, or other article intended for the food of man is unfit for such food, to order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the owner thereof, or the person in whose possession the same is found, shall be liable to a penalty not exceeding fifty Rupees.

128. It shall also be lawful for the Commissioners, or for any persons appointed by them for that purpose, to inspect the weights and measures used in markets and shops in any Town, with a view to the prevention and punishment of offences relating to weights and measures, as described in Chapter XIII of the Indian Penal Code.

129. Within such limits as may, for the purposes of this Section, be fixed by the Commissioners, no premises shall be newly used, except under license from the Commissioners, for any of the following purposes; viz., for melting talow, for boiling offal or blood, or as a soap-house, oil-boiling house, dyeing house, tannery, brick pottery or lime kiln, or other manufactory or place of business from which offensive or unwholesome smells arise, or as a yard or dépôt for hay, straw, wood, or coal; and whoever shall, without a license, use any such premises for such purpose, shall be liable to a fine not exceeding fifty Rupees, and a further fine not exceeding twenty Rupees for every day after conviction for such offence during which the said offence is continued.

130. Licenses shall be issued by the Commissioners to all persons permitted to carry on the trades aforesaid under the preceding section, or who have carried on such trades previous to the coming into operation

operation of this Act; and in these licenses shall be fully stated the conditions under which it shall be lawful to carry on such trades. And whoever, without such license, carries on any such trade within the Town, shall be liable to a penalty not exceeding fifty Rupees, and to a further penalty not exceeding ten Rupees for every day after conviction for such offence during which such trade is continued.

131. Where any application is made to the Commissioners for a license to continue any such trade which has been carried on previous to the coming into operation of this Act, it shall be lawful for the Commissioners to suspend the issuing of such license for a reasonable time, to admit of an application being made to, and determined by, the Magistrate under the next section. Provided always that no person shall be liable to a penalty for continuing such trade without a license during the period that shall elapse between the application for such license and the final determination of the Magistrate.

132. If, prior to the coming into operation of this Act, any such trade has been carried on within the limits of any Town, and it is shown, to the satisfaction of the Commissioners, that such trade is a nuisance, or dangerous to the neighbourhood, the Commissioners shall bring these facts to the notice of the Magistrate, for the purpose of causing such nuisance to be removed as provided in Chapter XX of Act XXV of 1861 (The Code of Criminal Procedure).

133. No burial or burning ground, whether public or private, shall be made or formed after the passing of this Act, without license, in writing, from the Commissioners; and whoever shall bury or burn, or cause, permit, or suffer to be buried or burned any corpse in any burial or burning ground made or formed without such license, shall be liable to a fine not exceeding fifty Rupees.

134. If, upon the evidence of competent persons, it shall appear to the Commissioners that any burial or burning ground is in such a state or position as to be dangerous to the health of persons living in the neighbourhood thereof, and also that a suitable place for interment or burning, as the case may be, exists within a reasonable distance and is available, the Commissioners may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning ground; and whoever, after the time so appointed,

appointed, buries or burns, or causes or permits to be buried or burned, any corpse therein, shall be liable to a fine not exceeding fifty Rupees.

135. The Commissioners shall, from time to time, from the funds at their disposal, and with the sanction of the Governor in Council, provide fitting places to be used as burial or burning grounds, for the use of the inhabitants of the Town.

136. No place shall be used as a cart-stand, or public halting place for vehicles or cattle of any description, within any Town, unless licensed as a cart-stand or public halting place by the Commissioners. Whoever uses or permits to be used, for any purpose aforesaid, any place within the Town not so licensed, shall be liable to a penalty not exceeding fifty Rupees, and to a further penalty not exceeding ten Rupees for every day after conviction for such offence during which such use is continued.

137. The Commissioners may, from time to time, provide places for the purpose of being used as cart-stands or public halting places, and shall be authorized to levy fees for the use thereof.

138. Whoever builds any wall, or erects any fence, or other obstruction or encroachment, in any public street, or in or over any open drain or sewer along the side of any such street, after this Act shall have come into operation in any Town, shall be liable to a penalty not exceeding fifty Rupees; and the Commissioners shall have the power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person who caused the same to be erected, and shall be recoverable as a debt due to the Commissioners. Nothing herein contained shall prevent the Commissioners from licensing any temporary erections in any public street on occasions of festivals and ceremonies.

139. The Commissioners may cause any such obstruction or encroachment, erected before this Act came into operation, to be removed or altered, as they shall think fit. Provided that thirty days before such alteration or removal is begun, notice in writing shall be given of such intended removal or alteration to the occupier of the house or building in front of which such encroachment or obstruction exists. And the Commissioners shall make reasonable compensation to every person who suffers damage by such removal or alteration.

140. Whoever

140. Whoever takes up or makes any alterations in the pavement or other material, or in the fences or posts of any public street in the Town, without the consent in writing of the Commissioners, or without other lawful authority, shall be liable to a fine not exceeding fifty Rupees.

141. Any person who wishes to make or lay out any new street, shall give notice thereof in writing to the Commissioners, showing the intended level and width of such street; and the level and width of every such street shall be fixed or approved by the Commissioners. Any one laying out any new street without the written permission of the Commissioners, shall be liable to a fine not exceeding fifty Rupees, and the expense of the removal of any building erected in such new street, shall be paid by the offender and be recoverable as a debt due to the Commissioners.

142. It shall not be lawful for any person to erect, within any Town, any building or hut, or any range or block of buildings or huts, on any plot or parcel of ground on which no buildings or huts are standing, without previous notice in writing to the Commissioners; and the Commissioners may require such buildings or huts to be built, so that they may stand in regular lines, with a free passage or way in front of each line, of such width as the Commissioners may think proper for salutary ventilation, and to facilitate scavengering, and at such a level as will admit of sufficient drainage. Any buildings or huts which may be erected in contravention of this Section shall, after one month's notice in writing to the builder thereof to remove the same, be removed by the direction of the Commissioners; and the expense incurred in doing so shall be paid by the person who caused the same to be built, and shall be recoverable as a debt due to the Commissioners.

143. Whenever the Commissioners are satisfied from inspection, or by report of competent persons, that any existing block of buildings or huts in any Town is, by reason of the manner in which the buildings or huts are crowded together, or of want of drainage, and the impracticability of scavengering, attended with risk of disease to the inhabitants or the neighbourhood, they may, with the sanction of the Government, cause a notice to be fixed to some conspicuous part of such buildings or blocks of huts, requiring the owners or occupiers thereof, or, at the option of the Commissioners, the owner of the land on which such buildings or huts are built, within a reasonable time to be fixed by the Commissioners for that purpose, to execute such works as the Commissioners, with such sanction as aforesaid, may deem necessary for avoidance of such risk.

risk. And, in case such owners or occupiers or the owner of the land shall refuse or neglect to execute such works within the time appointed, the Commissioners may cause the said buildings or huts to be taken down, or such works to be performed in respect of such buildings or huts, as the Commissioners may deem necessary to prevent such risk. If such buildings or huts be pulled down, the Commissioners shall cause the materials of each building or hut to be sold separately, if such sale can be effected; and the proceeds shall be paid to the owner of the hut, or, if the owner be unknown or the title be disputed, shall be held in deposit by the Commissioners, until the person interested therein shall obtain the order of a Court of competent jurisdiction for the payment of the same. Provided that such proceeds, if unclaimed, shall, after the expiration of twelve months, be credited to the Municipal Fund. Provided also that the Commissioners shall make reasonable compensation to all persons who shall suffer damage by any of the aforesaid works executed under the direction of the Commissioners.

144. The Commissioners may, upon such terms as they shall think fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

145. When any building, or any part thereof, which projects beyond the regular line of a public street, or beyond the front of the building on either side thereof, has been taken down in order to be rebuilt or altered, the Commissioners may require the said projecting part to be set back to or towards the line of the street or the line of the adjoining buildings. Provided always, that the Commissioners shall make full compensation to the owner of any such building for any damage he may thereby sustain, and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

146. The Commissioners shall, from time to time, cause to be put up or painted on a conspicuous part of some house, building, wall, or place, at or near the end or entrance of every street, the name by which such street is to be known; and whoever destroys or defaces such name, shall be liable to a penalty not exceeding ten Rupees.

147. The Commissioners may, from time to time, fix a number in a conspicuous place on the outer side of any house, or building, or at the entrance of the enclosure thereof fronting the street; and whoever destroys, pulls down, or defaces any such number, shall be liable to a penalty not exceeding ten Rupees.

148. The

148. The external roofs, walls, and verandahs of huts, or other buildings erected or renewed within the limits of any Town after this Act shall have come into operation therein, shall not be made of grass, leaves, mats, or other inflammable materials, except by the permission, in writing, of the Commissioners. Any person contravening this Section shall be liable to a penalty not exceeding ten Rupees for every such offence, and for every day that such offence is continued after conviction.

149. The Commissioners shall give notice, in writing, to the owner, if known and within the limits of their jurisdiction, and also to the occupier of any land, to trim or prune any of the hedges thereof that may be planted along any public road or street, so that they may not exceed the height of six feet from the level of the ground, and to cut and trim all trees, which, by overhanging any public road or street, obstruct the passage or cause damage thereto. And, in the event of such notice not being complied with within eight days from the date thereof, the Commissioners may cause the said hedges and trees to be cut and trimmed in the manner required; and the expense incurred by the Commissioners in respect thereof, shall be paid to them by the owner or occupier of such land making default, or may be recovered from the sale of such loppings, or as a debt due to the Commissioners.

150. Whenever any lands or premises, being private property or within any private enclosure, appear to the Commissioners to be, by reason of noxious vegetation, or want of drainage, in a state injurious to health, it shall be lawful for the Commissioners to give notice, in writing, to the owner, if known and within the limits of their jurisdiction, and also to the occupier of the premises, to clear and remove such vegetation or to drain such premises; and if such owner or occupier do not, within one week after such notice, begin to cut, clear, and remove such vegetation or to drain such land, and do not complete such work with due diligence, the Commissioners, their Officers, and workmen, may, after forty-eight hours' notice in writing, enter into the said premises and do all necessary acts for the purpose aforesaid as they shall think fit; and the expense incurred thereby shall be paid by the owner or occupier of such premises, or shall be recoverable as a debt due to the Commissioners.

151. It shall be lawful for the Commissioners, at any time between sunrise and sunset, by themselves or their servants, on giving notice in the manner provided by the previous section, to enter into and inspect all buildings, and, by an order in writing, to direct all or any part to be forthwith

forthwith internally and externally lime-washed or otherwise cleansed for sanitary reasons; and, if the owner or occupier of such building neglect to do so within a time to be fixed by the Commissioners in such order, the Commissioners may cause the same to be done; and the expenses incurred shall be paid by the owner or occupier, and shall be recoverable as a debt due to the Commissioners.

152. The licenses issued under Sections 106, 123, 125, 130, 133, and 136, shall be issued annually, and shall expire on the last day of the official year; and any person, who, being bound to take out such license, fails to obtain a renewal within one month after the expiration of such license, shall be liable to the penalties specified in those Sections.

153. When any license is granted under the provision of this Act, authorizing the use of any place for the purposes therein described, fees may be charged for such license at such rate as shall be fixed by the Commissioners, subject to the approval of the Governor in Council. Provided always, that no fees shall be chargeable in respect of burying or burning grounds licensed under Section 133.

154. It shall be lawful for any Police Constable or Officer to arrest, without warrant, any person guilty of any offence committed within his view against any provision of this Act, or any Bye-law under this Act. Provided that it shall be lawful for any Police Officer, under the general or special instructions of the Commissioners, to lay any information before a Magistrate, and to apply for summons, warrant, search warrant, or such other legal process as may by law issue and may be expedient under the circumstances, against any person committing any offence under this Act, and to prosecute such offenders up to final judgment.

155. It shall be the duty of all Police Officers to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act.

GENERAL PROVISIONS.

156. Every Notification of the Governor in Council which is directed under this Act, shall be published in the *Gazette of the District* to which it relates, both in English and the Vernacular language or languages of the District.

157. If,

157. If, through any act, neglect, or default, on account whereof any person shall have incurred any penalty, any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted, and, on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

158. In case any fine, forfeiture, or penalty imposed under or by virtue of this Act, or of any Bye-law made in pursuance thereof, shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security, to the satisfaction of the Magistrate, for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

159. If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

160. Every notice or summons under any of the preceding Sections of this Act, or under any Bye-law, may be served personally upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode with some adult member

or

or servant of his family; or, if it cannot be so served, it may be put upon some conspicuous part of such place of abode. If the notice or summons relates to any house, building, or land, and the place of abode of the owner is unknown, the notice or summons shall be deemed to be duly served if put upon some conspicuous part of the house, building, or land to which the same relates.

161. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole, or any part, of any rates, taxes, fees, or forfeitures recoverable under the provisions of this Act, the Commissioners may sue in competent Court instead of distraining or on failure of distress. Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

162. The Commissioners may make compensation out of the Municipal Fund, to any person sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, their Officers or servants, under this Act.

163. It shall be lawful for the Commissioners to make Bye laws—and to repeal, alter, and amend the same, subject to the confirmation hereinafter mentioned—for regulating the time and mode of collecting the rates and taxes mentioned in this Act, for regulating the conduct of persons employed by them, for the management of all matters connected with conservancy, and for carrying out all the purposes of this Act, and to affix fines and penalties for the infringement of such Bye-laws. Provided that no Bye-law shall be repugnant to any law in force, and that no fine for any one infringement of a Bye-law shall exceed twenty Rupees, and that, in case of a continuing infringement, no fine shall exceed ten Rupees for every day after written notice from the Commissioners of such infringement.

164. In all cases where any damages, costs, or expenses are, under any Bye-laws or provisions of this Act, directed to be paid, the amount of the same, in case of dispute, shall be recoverable in any Civil Court of competent jurisdiction as a debt due to the Commissioners. Provided that, if the expense thus claimed shall not exceed twenty Rupees, it shall be recoverable in the same manner as is hereinafter provided for the recovery of fines, forfeitures, and penalties under this Act.

165. No

165. No Bye-law or alteration of a Bye-law shall have effect until the same shall have been approved and confirmed by the Governor in Council, and shall have been published for such length of time and in such manner as the Governor in Council shall order.

Confirmation and publication of Bye-laws.

166. All Bye-laws, when the same shall have been duly confirmed and published shall, until the same be repealed or altered, be of the like effect as if they were inserted in this Act.

Bye-laws, until repealed or altered, to have like effect as if inserted in Act.

167. All Bye-laws which shall have been passed under the provisions of the Towns' Improvement Act of 1865 shall continue to be in force until the same shall be repealed or altered.

Bye-laws under Act X. of 1865, to continue in force until abrogated.

168. No action shall be brought against the Commissioners, 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 Commissioners, or at the place of abode of such person, explicitly stating the cause of action 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 action shall be commenced within six months next after the accrual of the cause of action, and not afterwards: and, if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all cost incurred by the defendant after such tender.

No action to be brought against the Commissioners or their Officers, until after one month's notice of cause of action.

169. The Commissioners may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund; and no prosecution for an offence under this Act shall be instituted, except within three months next after the commission of such offence.

Commissioners may direct prosecutions.

170. Every prosecution under this Act may be instituted before any Magistrate who has jurisdiction over the offender, except in cases otherwise provided for.

Prosecutions under this Act.

SCHEDULE A.

SCHEDULE A.—(Section 55.)

Table of Fees payable upon distrains under this Act.

Sums distrained for.			Fee.	
			RS.	A.
Under 1 Rupee	...	...	0	4
1 and under 5 Rupees	...	...	0	8
5 "	10 "	...	1	0
10 "	15 "	...	1	8
15 "	20 "	...	2	0
20 "	25 "	...	2	8
25 "	30 "	...	3	0
30 "	35 "	...	3	8
35 "	40 "	...	4	0
40 "	45 "	...	4	8
45 "	50 "	...	5	0
50 "	60 "	...	6	0
60 "	80 "	...	7	8
80 "	100 "	...	9	0
100 and above 100	"	...	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three Annas must be paid daily for each man.

SCHEDULE A. I.

No. 1.

NOTICE OF DEMAND—(Section 52.)

Take notice that the Commissioners of demand from you the sum of due from you for the months of 18 , and that if the sum due is not paid into the Office of the Commissioners at or if sufficient cause for the non-payment of the sum is not shown to the Commissioners within seven days from service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

Date (Signature of the President or Vice-President.)

No. 2.

DISTRESS WARRANT—(Section 52.)

To (here insert the name of the Officer charged with the execution of the Warrant.)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rupees due for the rates (or taxes) [or rates and taxes]

mentioned in the margin for the months of _____ 18, although the said sum has been
 duly demanded in writing from the said _____ and seven days have elapsed since the
 service of the notice of demand: This is to command you to distrain the property of the said
 _____ to the amount of the said sum of _____ Rupees and such further sum
 as may be sufficient to defray the charges of taking, keeping, and selling such distress; and, if within
 seven days next after such distress, the said sum shall not be paid; together with such further sum as
 may be sufficient to defray the charges of taking, and keeping such distress, to sell the said property,
 and having paid and deducted out of the proceeds of the sale the said sum of _____ Rupees and the
 charges of taking, keeping, and selling such distress, to return the surplus (if any) on demand to the
 person whom you shall find in possession of the said property. If sufficient distress cannot be found
 of the property of the said _____ you are to certify the same to us together with this
 Warrant.

Date _____ (Signature of the President or Vice-President.)

No. 3.

FORM OF INVENTORY AND NOTICE—(Section 54.)

(State particulars of Goods seized.)

Take notice that I have this day seized the property specified in the above inventory for
 the sum of _____ Rupees due for the rates (or taxes) mentioned in the margin for the months
 of _____ 18, and that unless you pay into the Office of the Commis-
 sioners of _____ the amount due, together with the costs of this distress, within seven
 days from the day of the date of this notice, the property will be sold.

Date _____ (Signature of the Officer executing the
 Warrant of Distress.)

SCHEDULE B.—(SECTION 58.)

Arts, Professions, Trades and Callings liable to be taxed.

CLASS I.

Yearly.

Every Joint Stock Company registered in India, trading with a paid-up capital of one
 lac of rupees or upwards Rupees 100.

CLASS II.

Every Joint Stock Company registered in India, trading with a paid-up capital of less
 than one lac of rupees
 Every Civil or Military Officer under Government, whose pay or salary amounts to Rupees
 1500 a month or upwards
 Every Abkarry Renter, and every Merchant, Banker, Sowcar, Wholesale Trader or Com-
 mission Agent
 Every Practising Barrister
 Every Owner of a Press for Cotton, or of a Coffee Cleaning establishment or Saw
 Mills
 Every Hotel-keeper, Boarding House-keeper, Shop-keeper, Manufacturer, Artisan or
 Trader, the gross rental of whose shop or place of business is estimated at Rupees
 1200 per annum or upwards

" 50

CLASS III.

Yearly.

Every Civil or Military Officer under Government whose pay or salary amounts to 800
 rupees per month and is less than Rupees 1500 per month, and every person in the
 service of any Joint Stock or other Public Company or Trading Firm whose salary
 amounts to Rupees 800 per month or upwards.
 Every Merchant, Banker, Sowcar, Wholesale Trader or Commission Agent, not assessed
 under Class II
 Every Practising Barrister not assessed under Class II., and every Attorney-at-law, Proctor,
 Notary Public, or Pleader practising in any Civil and Sessions Court, Principal Sudder
 Amin's Court, or Court of Small Causes
 Every practising Surgeon, Physician, Dentist, Architect or Civil Engineer
 Every Owner or farmer of a Bazaar.
 Every Owner of a Press for Cotton, or of a Coffee Cleaning Establishment or of
 Saw Mills, not assessed under Class II; and every owner of a Printing Press, or of a
 Press for Oil, Jute, Hides or other materials; and every Auctioneer.
 Every Hotel-keeper, Boarding House-keeper, Shop-keeper, Manufacturer, Artisan, or
 Trader, the gross rental of whose shop or place of business is estimated at Rupees
 500 a year or upwards

Rupees 25

CLASS IV.

Every person holding a Civil appointment under Government, or in the service of any
 Joint Stock or other Public Company or Trading Firm, whose salary amounts to
 Rupees 400 a month and is less than Rupees 800 a month
 Every Practising Licentiate of Medicine, Apothecary, and Veterinary Surgeon
 Every keeper of a Spirit Shop, Punch House, or Billiard Room, or wholesale Produce
 Depot
 Every Hotel-keeper, Boarding House-keeper, or Shop-keeper, or Retail Dealer, Manufacturer,
 Artisan, or Trader, the gross rental of whose Shop or place of business is estimated
 at more than 100 rupees, but less than 500 rupees a year
 Every Pleader and Practising Vakeel not included in Class III.
 Every Broker, or other person employed in the transfer or purchase of Imports or Exports,
 or in the sale of Government Securities, Shares and Bills of Exchange, or in procur-
 ing freight

" 12

CLASS V.

Every person holding a Civil appointment under Government, or in the Service of any
 Joint Stock or other Public Company, or Trading Firm, whose salary amounts to
 Rupees 200 a month and is less than Rupees 400 a month
 Every Hotel-keeper, Boarding and Lodging House-keeper, Shop-keeper, Retail Dealer,
 Manufacturer, Artisan or Trader, not included in Class III. or Class IV.
 Every Pawnbroker and every Trader, Artisan, or Merchant having a shop or place of
 business not included in Class IV.

" 6

CLASS VI.

Every person holding a Civil Appointment under Government or in the service of any
 Joint Stock or other Public Company or Trading Firm, whose salary amounts to
 Rupees 100 per month, and is less than Rupees 200 per month
 Every Keeper of a permanent stall at a Public Market
 Every Native Doctor not included in any other Class.
 Every Pawnbroker and every Trader, Artisan, or Merchant having a Shop or place of
 business not included in Class V... ..

" 3

CLASS VII.

Every person holding a Civil appointment under Government, or in the service of any
 Joint Stock or other Public Company or Trading Firm, whose salary amounts to
 Rupees 50 a month and is less than Rupees 100 a month

" 2

CLASS VIII.

Yearly.

Every Retail Dealer, Manufacturer, Artisan, Trader, or keeper of a shop or stall not included in any other Class, or Money Changer...	...	...	...	...	Rupees 1
Every Pedlar, Hawker, or itinerant dealer	...	...	...	...	
Every person holding a Civil Appointment under Government or in the service of any Joint Stock or other Public Company or Trading Firm, whose salary amounts to Rupees 30 a month and is less than Rupees 50 a month	...	...	...	...	
	...	...	...	...	

SCHEDULE C.—(Section 64.)

Vehicles and animals liable to taxation, with the maximum rates of taxation.

	Rupees half-yearly.
For every 4-wheeled Carriage on springs drawn by two Horses...	9 0
For every 4-wheeled Carriage on springs drawn by one Horse, or a pair of Ponies under thirteen hands, or by a pair of Bullocks or Buffaloes...	4 8
For every 2-wheeled Carriage on springs drawn by Horse, Mule, Bullock or Buffaloe	3 0
For every Horse...	4 8
For every Pony under thirteen hands, or Mule....	1 8
For every Elephant...	12 0
For every Camel...	6 0
For every Pony, under eleven hands...	0 8
Every Bullock or Buffaloe...	0 8
Every Ass...	0 4
Every Dog...	0 4

SCHEDULE D.—(SECTION 78.)

MAXIMUM RATES OF TOLLS PAYABLE ON ENTERING THE MUNICIPAL LIMITS.

	RS.	A.	P.
On every four-wheeled Carriage on springs.....	0	8	0
Do. two do. do.	0	4	0
Do. Jataka, hackery on springs, or cart drawn by men, buffaloes, bullocks, horses, ponies, asses or mules, laden.	0	4	0
Do. do. do. do. not laden.....	0	2	0
Do. Buffaloe, or bullock, laden.....	0	1	0
Do. Horse, laden or ridden.....	0	2	0
Do. do. not laden or ridden.....	0	1	0
Do. Pony or Ass, laden or ridden	0	1	0
Do. Elephant.....	1	0	0
Do. Camel.....	0	4	0

For the use of the Dy Sahibdar of Palau

MADRAS.

ACT No. IV. OF 1871.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[Received the assent of the Governor on the 2nd March 1871, and of the Governor-General on the 28th March 1871.]

THE MADRAS LOCAL FUNDS' ACT, 1871.

ARRANGEMENT OF SECTIONS.

Preamble.

Section—

- 1. Interpretation Clause.
Landholder.
Tenant.
President. *
House.
Official year.
- 2. Madras Acts VI. of 1863, III. of 1866, and II. of 1868 to have no effect in places to which this Act is extended.
- 3. Application of Act.
Appointment and functions of Local Fund Boards.
- 4. Appointment of Local Fund Boards.
- 5. Appointment of President and ex-officio Members.
- 6. Appointment of Vice-President of the Board.
- 7. President of Board empowered to sue and be sued, to hold property, and enter into contracts.
- 8. Public

SECTION.

8. Public streets, &c., vested in the Local Fund Board.
9. Property vested in School Commissioners under Madras Act VI. of 1863, to be transferred to the Local Fund Board.
10. Existing hospitals, schools, choultries, &c., to be vested in the Local Fund Board.
Transfer of funds.
Proviso.
11. Saving of Revenue Board's powers in regard to charitable endowments.
Power to transfer them to Local Fund Board.
12. Board to have and use a seal.
13. Board may, with consent of owners, take over and repair certain roads or streets.
14. Power to purchase and sell lands.
15. The Governor in Council may declare any land to be needed for a public purpose, &c.
16. Member of Board not to be personally liable for contracts, &c., but only for wilful misapplication, &c., of money.
17. Penalty on Member of Board or their servant being interested in contracts.

Mode of transacting business.

18. Local Fund Board to meet for the transaction of business.
19. Who to preside at Meetings of the Local Fund Board.
20. Casting vote.
21. Minutes of Proceedings of Board to be kept, and to be open for inspection.
22. Quorum.
23. Executive Power of Board vested in the President.
24. President to appoint Officers for the purposes of this Act.
25. Officers already employed by Government for similar purposes to be continued in office.

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26. Purposes to which the funds raised under this Act are to be applied.
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28. Appointment of Officers to superintend operations of Local Fund Boards.
29. Collector to submit annual estimates of receipts and charges.
30. Estimate of annual expenditure.
31. Government to pass orders on estimate.
32. Submission of Annual Reports and Audit of Local Fund Accounts.

33. Saving

SECTION.

33. Saving of Power of Government to appoint Local Committees for schools, &c.

Constitution of Local Funds.

34. What shall constitute the Local Fund.
35. Fund where to be lodged and how to be drawn against.

Rates, Tolls, and Taxes leviable under this Act.

36. Levy of rates, tolls, and taxes.
37. Rate to be fixed by Notification of Government.

Rates on the rent value of land.

38. Annual rent value of lands how to be fixed.
 - i. Lands held under Ryotwary settlement.
 - ii. Inam lands.
 - iii. Lands held on any tenure other than Ryotwary.
39. Local rate how to be calculated when revenue or rent is paid in kind.
40. Holders of land, on other than Ryotwary tenure, to furnish lists of their lands to Collector.
41. Penalty for failing to furnish such lists.
42. If list be not furnished, Collector may fix the annual rent value of such landholder's lands.
43. Power of Collector to summon parties, &c., to ascertain correctness of the lists, or to fix annual rent value when such lists have not been furnished.
44. Collector to assess landholder in accordance with list submitted by him, if he is satisfied with it, or amend the same if dissatisfied with it.
45. Appeal to Board of Revenue.
46. Rate to be entered in puttahs of Ryotwary lands.
47. Payment of local rate by landholder.
Power to landholder to recover one-half of the rate from tenant.
48. Remission of one-half of local rate in case of lands held on other than ryotwary tenure, on the amount of peshcush or other revenue payable to Government.
49. Arrear of local rate how to be recovered.
50. Powers and liabilities of landholders under the Act, in regard to the collection of local rates from their tenants.

Tax on Houses.

51. Levy of tax on houses.
52. Rate-book to be kept and to be open to inspection.

53. Completion

SECTION.

53. Completion of Rate-book to be notified.
54. Amendment of Rate-book.
55. Appeals.
56. Notice of appeals.
57. Remission of rate on account of vacant houses.
58. Exemption from payment of house-rate on the ground of poverty.
59. Notice of demand for house-rate.
60. Inventory. Distress.
61. Rate paid by, or recovered from, occupier of house to be deducted from rent thereof.

Tolls on Carriages, &c.

62. Tolls on carriages, &c., to be levied as provided for.
63. Tolls to be levied on carriages, carts, and animals entering the circle.
64. In case of non-payment of toll, vehicle, &c., may be seized.
65. Troops, Military stores, Police, &c., exempt from toll.
66. The Board may compound with persons living outside the Circle for a payment in lieu of tolls.
67. Police to assist toll-collectors.
68. Table of tolls to be exhibited.

General Provisions.

69. Bar of Suits in Civil Courts.
70. Duties imposed by this Act on the Collector may be done by any other Officer appointed for that purpose.
71. Delegation of the powers of Government under this Act.
72. Publication of Notifications in the District Gazette.
73. Service of Notice.
74. Illegal collection of rates, taxes or tolls.
75. Offender may be detained in custody or compelled to give security if fine be not paid.
76. Imprisonment where no sufficient distress can be had.
77. Prosecutions under the Act.
78. Short Title.

Schedules.

- Schedule A. Tax on houses.
- „ B. Maximum rates of tolls payable on carriages, &c., passing along roads within the Circle.
- „ C. Notice of Demand,

MADRAS.

MADRAS.

ACT No. IV. OF 1871.

An Act to provide Funds for expenditure on objects of local public utility and improvement, and to constitute Local Boards for the due administration of such Funds.

WHEREAS it is necessary that the funds available for the construction, repair, and maintenance of roads and communications in the Presidency of Madras should be increased, and that funds should also be raised by means of local rates for the diffusion of education and for other objects of public utility calculated to promote the health and the comfort or convenience of the inhabitants of places not included within the limits of any Municipality ; It is hereby enacted as follows:—

Interpretation Clause.

1. The following words and expressions, wherever they occur in this Act, shall have the meaning hereby assigned to them.

The term “ Landholder ” shall include all persons holding under a Sunnud-i-Milkeut-Istimrar, all other Zemindars, Poligars, Shrotriendars, Jaghirdars, and Inamdars, and all persons farming the Land Revenue under Government ; also all holders of land under Ryotwar Settlement, or in any way subject to the payment of Land Revenue direct to Government, and all other registered holders of land in proprietary right.

Tenant.

The term “ Tenant ” shall include all persons who occupy land under a landholder, whether personally or by an agent, and whether they pay rent to such landholder or otherwise.

President.

The term “ President ” shall denote the President of any Board appointed under this Act.

House.

The term “ House ” shall include any shop, or warehouse.

The words “ Official year ” shall mean the year beginning on the first day of April or such other date as may hereafter be fixed by the Governor in Council by Notification in the *Fort Saint George Gazette*.

2. The Madras Education Act No. VI. of 1863, the Madras District Road Cess Act No. III. of 1866, and the Madras Act II. of 1868 (*An Act to enable land-holders in certain localities to levy tolls upon roads and bridges constructed by them at their own expense and also on roads and bridges constructed at the expense of the State, the repair and maintenance of which may be undertaken by such landholders*) shall, in every Circle to which this Act shall be extended, cease to have effect, except as to any assessment

made,

made, or as to any act done, or as to any liability incurred, or as to any money due, or as to any proceedings commenced in such Circle, before this Act shall have effect therein.

3. It shall be lawful for the Governor in Council, by Notification in the *Fort Saint George Gazette*, from time to time to declare any District or part of a District to be a Circle within the meaning of this Act, and the Act shall come into force in such Circle on the date fixed in such Notification; provided that it shall not be applicable to the Town of Madras, or to any Town to which the provisions of the Towns' Improvement Act of 1865, or of any Act which shall have been subsequently passed for regulating the Municipal administration of Towns in the Presidency of Fort Saint George, shall have been extended, except to the extent hereinafter specified in Section 27 of this Act.

APPOINTMENT AND FUNCTIONS OF LOCAL FUND BOARDS.

4. In any Circle to which the operation of this Act shall have been extended, the Governor in Council shall appoint a Local Fund Board for the administration of the funds raised for any or all of the several purposes of this Act. Such Board shall consist of three or more persons being owners or occupiers of land in such Circle, or carrying on business therein, or residing in such Circle. The persons so appointed shall continue in office for three years, or until their successors shall have been appointed, and shall be eligible for re-appointment. The Governor in Council may from time to time accept the resignation of any of the Members of a Board appointed under this Act, or may remove any such Member for misconduct or neglect of duty, add to their number, or fill up vacancies among them.

5. In addition to the number to be appointed as aforesaid, the Collector of the District shall be ex-officio Member and President of each Local Fund Board appointed within the District under this Act, and it shall further be competent to the Governor in Council to appoint as Members of each Local Fund Board any officers in the service of Government; provided that not more than one-half of the whole number of Members of any one Local Fund Board shall be persons holding salaried offices in the service of Government.

6. The Governor in Council shall from time to time appoint one of the Members of each Local Fund Board to be Vice-President of such Board.

7. The

7. The Local Fund Board shall sue and be sued in the name of their President by the description of "The President of the Local Fund Board of the — Circle in the District of —;" and, in such name so described, the Board shall be competent to hold property moveable and immoveable, to them and their successors as a body corporate, and to convey the same, and to enter into all necessary contracts for the purposes of this Act.

8. All public roads or streets in any Circle (not being private property) existing at the time this Act comes into operation, or which shall afterwards be made, and the pavements, stones, and other materials thereof, and also all erections, materials, implements, and other things provided for such roads or streets, shall vest in the Local Fund Board of the Circle. But it shall be competent to Government from time to time by Notification to exclude any road or street from the operation of this Act, and to cancel such Notification, wholly or in part.

9. All lands, houses, and other property in any Circle, which, at the time this Act comes into operation in such Circle, shall be vested in the School Commissioners appointed under the Madras Education Act, shall vest in the Local Fund Board of the Circle; and all claims and demands which any person might have preferred against such School Commissioners in their official capacity may be preferred against the Local Fund Board.

10. All or any hospitals, dispensaries, schools, choultries, markets, tanks and wells, not being private property and not governed by Regulation VII. of 1817 of the Madras Code, and all medicines, furniture, and other articles appurtenant thereto, not being private property, which, at the time this Act comes into operation in any Circle, shall be found therein, may by Notification of the Governor in Council be vested in the Local Fund Board of the Circle; and thereupon all endowments or funds belonging to such hospitals, dispensaries, schools or choultries, shall be transferred to and vest in the Local Fund Board in trust to hold and apply the same to the purposes to which such endowments and funds were lawfully applicable at the time of such transfer. Provided always, that no such Notification shall be issued until one month after the intention of Government to transfer such property shall have been notified in the District Gazette in English and in the Vernacular language or languages of the District.

11. Nothing

11. Nothing in this Act contained shall be deemed to affect the duties and powers vested in the Board of Revenue in respect of charitable endowments by the said Regulation VII. of 1817. But it shall be competent to the Board of Revenue, with the written consent of the Government and of the Local Fund Board, to make over to the Local Fund Board the management and superintendence of any such endowment; and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to the Local Fund Board as if such Local Fund Board had been specifically named in the said Regulation.

12. The Local Fund Board shall have and use a common seal, and shall have their name engraven thereon in legible characters in the English language and also in the Vernacular language of the District. All contracts entered into in respect of any sum exceeding twenty Rupees shall be in writing, and shall be sealed with the common seal of the Board, and, on their behalf, in the presence of at least two Members of the Board, one of whom shall be the President or the Vice-President, who shall certify the same by affixing their signatures as witnesses at the foot of the instruments. All such contracts shall be varied or discharged in a similar manner.

13. It shall be lawful for the Board to agree with the person or persons, in whom the property in any road or street is vested, to take over the property therein, and, after such agreement, to declare, by notice in writing put up in any part of such road or street, that the same has become a public road or street. Thereupon such road or street shall vest in the Board, and shall thenceforth be repaired and kept up out of the Local Fund.

14. The Board may agree with the owners of any land for the purchase thereof for the purposes of this Act, and may sell any land which has vested in them, either together or in parcels, and the proceeds of such sale shall be applied for the purposes of this Act.

15. When the Board may be unable to agree with the owners of any land for the purchase thereof, the Governor in Council may, upon the representation of the Board and after such inquiry as may be thought proper, declare that the land is needed for a public purpose, and may order proceedings to be taken for obtaining possession of the same for the Government, and for determining the compensation to be paid to the parties interested, according to any law now or hereafter to be in force for the acquisition of land for

for public purposes. On payment by the Board of the compensation awarded, such land shall vest in them in trust for the purposes of this Act.

16. No Member of the Board shall be personally liable for any contract made or expense incurred, by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for, and chargeable with, all contracts and expenses duly incurred as aforesaid. Every Member shall be liable for any misapplication of money entrusted to the Board to which he shall have been a party, or which shall have happened through, or have been facilitated by, his neglect of his duty; and he shall be liable to be sued for the same as for money due to the Government.

17. No Member of the Local Fund Board, or servant of the Board, shall be interested directly or indirectly in any contract made with the Board. And if any such person be so interested, he shall thereby become incapable of continuing in office or in employment, and shall be liable to a fine not exceeding five hundred Rupees, which shall be paid into and credited to the Local Fund. 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 of the Local Fund Board by reason of any contract entered into between such Company and the Board. Nevertheless, it shall not be lawful for such shareholder or member to act as a Member of the Board in any matter relating to any contract entered into between the Board and such Company.

MODE OF TRANSACTING BUSINESS.

18. Each Local Fund Board shall meet for the transaction of business upon such days and at such place as they may arrange, and as often as a Meeting shall be called by the President or the Vice-President. And all questions which may come before them at any Meeting shall be decided by majority.

19. In the absence from any Meeting of the President and Vice-President, the Board shall choose some one of their number to preside.

20. In every case of equality of votes, the presiding Member shall have a second or casting vote.

21. Minutes of the Proceedings of the Board at each Meeting shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the Member who presided at such Meeting. And the said Minutes shall, at all reasonable times

and

and without charge, be open at the Office of the Board to the inspection of any person who pays a rate or tax under this Act on behalf of himself or of any other person.

Quorum,

22. No business shall be transacted at a Meeting unless at least three Members be present.

23. The resolutions of the Local Fund Board shall be carried into effect by the President, in whom the entire executive power of the Board shall be vested, and who shall be directly responsible for the due fulfilment of the purposes of this Act.

24. The President may from time to time appoint all such officers as the Board shall think necessary and proper to assist in the execution of this Act, and may from time to time remove any such officers and appoint others in their place, and out of the funds applicable to the purposes of this Act may pay such salaries to the said officers respectively as the Board shall think reasonable. Provided that it shall be competent to the Government to pass such orders as they may deem proper in respect of the number of officers to be appointed under this Section, and the rates of salary to be assigned to them; and such orders shall be binding on the Board, and shall be carried out by them as far as the funds at their disposal will permit.

25. All persons in the employ of Government, who at the time this Act comes into operation in any District shall be performing any executive or ministerial duties in carrying out the purposes specified in this Act, shall continue to discharge such duties under the orders of the Government, unless and until the Government shall otherwise direct.

PURPOSES TO WHICH THE FUNDS RAISED UNDER THIS ACT SHALL BE APPLIED.

26. The funds raised under the powers of this Act shall, subject to such rules as the Governor of Fort Saint George in Council may from time to time prescribe, be applicable to the following purposes in the Circle in which they are raised :—

- i. The construction, repair, and maintenance of roads and communications.
- ii. The diffusion of education and, with this object in view, the construction and repair of school-houses, the maintenance of schools either wholly or by means of grants-in-aid, the inspection of schools, and the training of teachers.
- iii. The construction and repair of hospitals, dispensaries, lunatic asylums, choultries, markets, tanks, and wells, the payment of all charges connected with the objects

objects for which such buildings have been constructed, the training and employment of vaccinators and medical practitioners, the sanitary inspection of towns and villages, the cleansing of the roads, streets, and tanks, and any other local works of public utility calculated to promote the health, comfort, or convenience of the people.

27. It shall be competent to any Local Fund Board appointed under this Act, with the sanction or upon the direction of the Government, to contribute out of the local funds belonging to any Circle towards the expenses incurred in any other Circle constituted under this Act, or in any Municipal Corporation constituted under any Act which may now or hereafter be in force within the Madras Presidency, where such expenditure is incurred for any of the purposes described in the last preceding Section, and is calculated to benefit the inhabitants of the contributing Circle. Provided always, that where such contribution has not been originally recommended by such Local Fund Board, it shall not be obligatory upon them until the proposal to make such contribution shall have been submitted to them by the Government, and they shall have had the opportunity of offering their opinions thereon.

28. It shall be competent to the Government to appoint from time to time such officers as may be required for the purpose of inspecting or superintending the operations of the Local Fund Boards created by this Act, and to assign to them such salaries as the Governor in Council shall think reasonable; and the expense incurred by reason of such appointments shall be defrayed in rateable proportions out of the Local Funds of the several Circles.

29. The Collector of the District shall annually render to the Local Fund Boards of each Circle within his District an estimate of the probable gross receipts and charges of collection of the rates taxes, and tolls levied under this Act in the same Circle.

30. The Local Fund Board shall, at such time or times and in such form as the Governor in Council shall direct, furnish for the sanction of the Governor in Council a statement or estimate showing the probable receipts and the expenditure which it is proposed by the Board to incur during the next official year, and the items in respect of which it is proposed to incur such expenditure, and may also furnish a supplemental estimate providing for any modifications which they may deem it advisable to make in the distribution

distribution of the amount to be raised and expended in the official year then current for the purposes of this Act.

31. It shall be lawful for the Governor in Council to pass such orders as he shall think fit upon the original or supplemental estimate so submitted to him, and such orders shall be binding upon the Board, and shall be carried out by them so far as the means at their disposal will permit.

32. The Board shall, at such time or times and in such form as the Governor in Council shall direct, furnish an Annual Report of their proceedings, and statements in detail of all the works executed and measures carried out by them, and of all sums received and expended by them. The Local Fund Accounts shall be audited by such Officer and in such manner as the Governor in Council shall direct. The Annual Report shall be published, both in English and in one of the Vernacular languages of the district, in the *District Gazette*.

33. Nothing in this Act contained shall be deemed to affect the power of Government to appoint Local Committees for the management of schools, dispensaries, and other institutions maintained or aided out of the funds raised under this Act; provided that such Committees shall act in subordination to the Local Fund Board under such rules as the Governor in Council shall prescribe.

CONSTITUTION OF LOCAL FUNDS.

34. The Local Fund shall consist of all unexpended balances of funds raised under Madras Acts VI. of 1863 and III. of 1866, of the proceeds of the rates, taxes, and tolls hereinafter authorized, of the sale proceeds of all property vested in the Local Fund Board which may be sold under their orders, of all fines or penalties levied under the authority of this Act, of all contributions received from other Circles or Municipal Corporations, and of all other sums of money which under the sanction of the Government may be received by the Local Fund Board in trust for the purposes of this Act. Provided that the said unexpended balances of funds raised under the said Madras Education Act (No. VI. of 1863) and the District Road Cess Act (No. III. of 1866) shall be applied only to the purposes to which such funds were lawfully applicable at the date of the coming into operation of this Act. Provided also that the Local Fund of each District shall remain liable for the re-payment of all advances made by Government for the purposes of Madras Act III. of 1866 (The District

District Road Cess Act) in such District, which may not have been discharged out of the collections made under that Act.

35. The Local Fund shall be lodged in such Bank or Government Treasury as the President, under the orders of Government, may direct. All expenses incurred by him shall be paid out of such Fund; and all orders or cheques upon the said Fund shall be signed by the President, or, in his absence, by any officer authorized by him for the purpose, whose signature shall be a sufficient authority to such Bank or Government Treasury for the payment thereof.

RATES, TOLLS, AND TAXES LEVIABLE UNDER THIS ACT.

36. It shall be lawful for the Government, subject to the restrictions hereinafter mentioned, to levy for the purposes of this Act, in any Circle to which this Act shall have been applied, all or any one or more of the following rates, tolls, and taxes; that is to say:—

i. A rate or cess not exceeding one anna in the rupee on the annual rent value of all occupied land on whatever tenure held.

ii. A tax on houses not exceeding the rates laid down in Schedule A to this Act annexed.

iii. Tolls upon carriages, carts, or animals passing along roads within the Circle not exceeding the rates laid down in Schedule B to this Act annexed.

Provided that the tax on houses shall not be imposed except in villages or groups of villages, or townships, in which a school supported by a Government grant-in-aid already exists, or in which the inhabitants are prepared to establish a school under such rules as may at the time be in force in respect of Educational grants-in-aid, or in which the Government shall determine to establish a school. Provided also that the net proceeds of all tolls, and not less than two-thirds of the rate or cess actually levied on the annual rent value of occupied land, shall be applied to the first of the purposes specified in Section 26 of this Act.

37. The exact amount of the said rates, tolls, and taxes, and the date from which they shall be payable in each Circle, shall be fixed from time to time by Notification by the Governor in Council; but it shall be competent to the said Governor in Council to sanction a reduction or remission of the amount of any rate, toll, or tax authorized in such Notification, in the case of particular persons or classes of persons, either on the ground of poverty, or on the ground of inequality in the incidence of taxation, or for any other reason which may appear to the Government to be satisfactory.

RATE ON THE RENT VALUE OF LAND.

Annual rent value of lands
how to be fixed.

38. The rent value of land shall be calculated for the purposes of this Act in the following manner :—

i. In the case of lands held direct from the Government under a Ryotwary Settlement, the assessment payable to Government for the land, together with any water-rate which may be payable for its irrigation, shall be taken to be the annual rent value of such lands.

ii. In the case of Inam lands, or lands held wholly or partially free from assessment, the full assessment which such lands would bear if they were not Inam, together with any water-rate which may be payable for their irrigation, shall be taken to be the annual rent value ; and such full assessment and water-rate, if not already fixed and known, shall be determined by the Collector of the District under the general orders of the Board of Revenue.

iii. In the case of lands held on any other tenure, the annual rent payable to the land-holder by his tenants shall, for the purposes of this Act, be taken to be the annual rent value of the lands held by such tenants; and the rent ordinarily payable to the landholder for lands of similar quality leased out by him in the neighbourhood shall be taken to be the annual rent value of lands occupied by the owner himself, or by any person holding the same from him free of rent or at a favourable rent.

39. When revenue or rent is paid in kind, the local rate shall be calculated on the rates of rent established or paid for neighbouring lands of a similar description and quality.

40. It shall be lawful for the Collector, with the sanction of the Board of Revenue, to require every landholder holding under any tenure other than ryotwary to furnish him with a list of his lands, whether occupied by tenants or by himself, specifying, in each case, the annual rent value of the lands so occupied.

41. If such landholder shall fail to furnish to the Collector of the District, or to such other officer as he may appoint, the list referred to in the last preceding Section, within six months after requisition made in the District Gazette, or otherwise, such landholder shall be liable to a fine, not exceeding Rupees fifty for each day's delay until the list be furnished, or until the annual rent value of such landholder's lands shall have been fixed by the Collector as provided in the next following Section. Such fine shall be credited to the Local Fund.

42. If

42. If no such list be furnished by the landholder within one month from the expiration of the six months aforesaid, the Collector of the District shall be empowered to fix, for the purposes of this Act, the annual rent value of such landholder's lands, both those occupied by his tenants and those occupied by himself.

43. The Collector of the District shall be empowered to take steps for ascertaining the correctness of the lists referred to in Section 40 or for fixing the annual rent value as provided in the last preceding Section where such lists have not been furnished, in the manner provided by Madras Act III. of 1869, any thing in Regulation XXIX. of 1802 to the contrary notwithstanding, and may depute any of his officers to make such inquiries as may be necessary.

44. If the Collector is satisfied with the list submitted by a landholder under Section 40 of this Act, he shall assess him in accordance with it for the local rate due on his estate; but if the Collector be dissatisfied with the list, he shall, after making the inquiries referred to in Section 43, amend the same, and shall supply such landholder with a copy of such amended list, which, for the purposes of this Act, shall be taken to contain the annual rent value of his lands for the purposes of this Act.

45. An appeal shall lie to the Board of Revenue from decisions of Collectors under the last preceding Section of this Act, provided such appeal be preferred within three months from the date of the Collector's decision; and the orders of the Board on such appeals shall be final.

46. In the case of land held on Ryotwary tenure, the amount of the local rate shall be entered in the puttah of the landholder.

47. Every landholder shall pay to the Collector, or other Officer empowered by him to receive it, the local rate due under this Act upon his lands, whether occupied by his tenants or by himself, on or before such dates and in such instalments as the Collector, under the general orders of the Board of Revenue, may declare by a Notification in the Gazette of the District. Provided that every landholder is hereby empowered to collect and recover from his tenants one-half of the local rate payable under this Act in respect of the land held by such tenants.

48. Every

48. Every holder of land coming within the meaning of Clause 3 of Section 38 of this Act shall be entitled to a remission of one-half of the local rate payable under this Act on so much of the whole annual rent value of his land as is equal to the amount of the peshcush or permanent assessment or other revenue payable by him to Government in respect of such land. Provided always that the amount recoverable by such landholder from his tenants under the proviso to Section 47 of this Act shall be calculated upon the whole amount which would have been payable to Government if no such remission had been allowed.

49. When the whole or any portion of an instalment of local rate shall not be paid by a landholder on the date fixed by the Collector under Section 47 of this Act, the sum remaining unpaid shall be deemed an arrear; and it shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to proceed to recover the arrear with interest and costs of process under the provisions of Madras Act II. of 1864; and the local rate is hereby declared to be included among the cesses referred to in Section 52 of that Act.

50. All landholders are hereby declared to have the same powers, and to be liable to the same penalties, in the collection of the portion of the local rate recoverable under the proviso to Section 47 from their tenants and other occupants of their lands, as may be prescribed in any Act or Regulation which now is, or hereafter may be, in force for the collection of rent due to a landholder.

TAX ON HOUSES.

51. Whenever it shall be determined by the Government to levy a tax on houses in any village, or group of villages, or township, the tax shall be levied in the manner prescribed by Sections 52 to 61 of this Act inclusive.

52. The Collector of the District, or such other Revenue Officers as the Collector shall authorize in that behalf, shall prepare lists of all houses rateable under this Act, in each village, group of villages, or township, and shall enter the same in rate-books which shall contain the name of the owner or occupier of the house, the class under which it is rated, the amount of rate due, and the date at which the rate is payable; and every person claiming to be the owner or occupier of such house, or the agent of such person, shall be at liberty to inspect the same at all reasonable hours and to make extracts therefrom without the payment of any fee.

53. As

53. As soon as the rate-books are prepared, the said Collector, or other Revenue Officer authorized as aforesaid, shall give public notice thereof and of the place or places where they may be inspected.

54. It shall be lawful for the said Collector, or other Revenue Officer as aforesaid, from time to time, to add to or amend the rate-book, by inserting therein the name of any person liable to be rated, or by inserting any property liable to the rate, or by altering the classification of such property; and, in the case of every such amendment, notice thereof shall be given to the person interested in such amendment.

55. Every person aggrieved by any rate fixed under Section 52 or 54 of this Act shall be at liberty to appeal to the Revenue Officer in charge of the Division of the District in which the village, or group of villages, or township is situated. The appeal shall be preferred within thirty days from the date of the publication or service respectively of the notice mentioned in the preceding Sections.

56. Every such appeal shall be in writing and shall be left at the office of the appellate authority, whose decision upon such appeal shall be final.

57. When any house shall have been vacant for sixty or more consecutive days during any year, the Collector of the District, or other Revenue officer authorized as aforesaid, shall remit so much as may be proportionate to the number of days the said house may have remained unoccupied; provided that the owner of such house, or his agent, shall have given to such officer notice in writing of the vacancy thereof, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

58. It shall be lawful for the Collector of the District, or other Revenue officer in charge of the Division in which the building is situated to exempt from payment, on the ground of poverty, the owner or occupier of any house rateable under this Act. Provided also that no building ordinarily used as a place of public worship, or as a public choultry, or as a Hospital, or Dispensary, and no building exclusively used for charitable purposes, shall be liable to any rate.

59. Where any house-rate shall remain unpaid ten days after the same is due, it shall be lawful for the Collector, or other Revenue Officer authorized as aforesaid, to serve upon the owner or occupier of the

the

the house, or upon both, a notice in writing in the form given in Schedule C to this Act, or to the like effect. If such person shall not, within seven days from the service of such notice of demand, pay the sum due, or show sufficient cause for non-payment of the same, such sum, with all costs, may be levied by distress and sale of all goods and chattels found on the premises, or of all goods and chattels of the owner, wherever the same may be found within the limits of the District.

60. The distraining Officer shall make an inventory of the goods seized, and if the amount due is not paid within seven days after seizure, the goods shall be sold, and the surplus, if any, after paying the rate and the costs of distress and sale, shall be returned to the person in possession of the goods at the time the seizure was made.

61. Whenever any house-rate shall have been paid by the occupier, or recovered from him by seizure and sale of his property, it shall be lawful for him to deduct the amount so paid or recovered from the next and following payments of rent.

TOLLS ON CARRIAGES AND ANIMALS PASSING ALONG ROADS WITHIN THE CIRCLE.

62. If it shall be determined by the Government to levy, for the purposes of this Act, tolls on carriages, carts, and animals passing along roads within any Circle, such tolls shall be levied as provided in Sections 63 to 68 of this Act.

63. It shall be lawful for the Governor in Council by Notification to declare that tolls, not exceeding the rates mentioned in Schedule B annexed to this Act, shall be levied upon all carriages, carts, and animals passing along any roads within the Circle specified in such Notification. The Collector of the District may thereupon construct toll-bars, gates, and gate-keepers' stations at such places as the Governor in Council may sanction, and may place the collection of such tolls under the management of such persons as may appear to him proper, or may, with the permission of the Governor in Council, lease out the same, and shall frame bye-laws, in manner hereinafter provided, for the guidance of such toll-collectors; and all persons employed in the management and collection of such tolls, shall be liable to the same responsibilities as would attach to them if employed in the collection of any assessment or tax under this Act. Provided that no more than one payment of toll shall be demanded for, and in respect of, any carriage, cart, or animal, in any one period of twenty-four hours counted from midnight to midnight.

64. In

64. In case of non-payment of any such toll on demand, the Officer appointed or duly authorized to collect the same may seize any carriage or animal on which it is chargeable, or any part of its burden of sufficient value to defray the toll. If any toll, together with the cost arising from such seizure and custody, remains undischarged for forty-eight hours, the Collector, or other Revenue Officer authorized by him in that behalf, may sell the property seized, for discharge of the toll and of all expenses occasioned by such non-payment, seizure, custody, and sale. Any balance that may remain shall be returned, on demand, if made within six months, to the owner of the property, and, if unclaimed after such period, shall be credited to the Local Fund. After seizure of the property as aforesaid, the Collector, or other officer authorized as aforesaid, shall forthwith issue a notice that, after the expiration of two days, exclusive of Sunday, he will sell, at such place as may be stated in the notice, the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender to the officer empowered to sell the property the amount of all the expenses incurred and of the toll payable by him, the property seized shall forthwith be released.

65. No tolls shall be paid for the passage of troops on their march, or of Military or Government stores and equipages or of Military or Police Officers on duty, or of any person or property in their custody; but no other exemption from payment of the tolls levied under this Act shall be allowed, except as provided in the following section.

66. It shall be lawful for the Local Fund Board to compound with any person for a sum to be paid annually or half-yearly, in lieu of all tolls payable under the provisions of this Act, either generally in respect of all roads within the Circle, or specially in respect of any particular road, and to issue licenses for such carriages, carts, or animals; and while such licenses shall remain in force such carriages, carts, and animals shall be exempt from all tolls as aforesaid, either generally upon all the roads within such Circle, or specially upon any particular road, as may be provided by the license: provided, always, that such composition shall include all the carriages, carts, and animals possessed by the person compounding.

67. In all cases of resistance to the lawful authority of the toll-collectors, all Police Officers shall be bound to assist the toll-collectors, when required, and, for that purpose, shall have the same power which they have in the exercise of their ordinary police duties.

68. A

68. A table of the tolls authorized to be taken at any toll-gate or station, legibly written or painted in English words and figures, and in the Vernacular language of the District, shall be put up in a conspicuous place near such gate or station.

GENERAL PROVISIONS.

69. It shall not be competent to any Civil Court to entertain any suit regarding the amount of any rate or tax levied under this Act.

70. Every act which is hereby directed to be done by the Collector of the District may be done by any other Officer whom the Governor in Council may authorize by Notification to that effect.

71. Every act which is hereby directed to be done by the Government may be done by any authority whom the Governor in Council may authorize by Notification to that effect, subject to such orders as the said Governor in Council shall from time to time prescribe.

72. Every Notification of the Governor in Council referred to in this Act shall be published in the Gazette of the District to which such Notification applies, both in English and in the Vernacular language or languages of the District.

73. Every Notice which is directed by this Act to be given to any person shall be served personally upon the person to whom such notice is addressed, or, if he cannot be found, it may be left with some servant or adult member of his family, or in default of any such, it may be affixed upon the door of his last known place of residence.

74. Every person, other than persons appointed or duly authorized to collect the rates, taxes, or tolls under this Act, who shall levy or demand any rate, tax, or toll, and also every person who shall unlawfully and extortionately demand or take any other or higher rate, tax, or toll than the lawful rate, tax, or toll, or under color of this Act seize or sell any property, knowing such seizure and sale to be unlawful, or who, in cases where he shall be entitled to recover from any person any portion of the tax paid by himself under this Act, shall demand or claim any higher portion than he is entitled to recover, or who shall in any manner unlawfully extort money or any valuable thing from any person under color of this Act, shall be deemed to have committed the offence of cheating, or extortion, as the case may be, and shall be liable to such punishment as is prescribed for those offences respectively by the Indian Penal Code.

75. In

75. In case of any fine, forfeiture, or penalty imposed under or by virtue of this Act shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

76. If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

77. Every prosecution under this Act may be instituted before any Magistrate who has jurisdiction over the offender, except in cases otherwise provided for.

Short title.

76. This Act may be cited as "The Madras Local Funds Act."

SCHEDULE A.—(SECTION 36.)

TAX ON HOUSES.

On every house classed in the 1st Class				Rupees 5 0 per annum.		
Do.	2nd	do.	...	3	0	..
Do.	3rd	do.	...	2	0	..
Do.	4th	do.	...	1	0	..
Do.	5th	do.	...	0	8	..
Do.	6th	do.	...	0	4	..

ACT No. IV. OF 1871.

SCHEDULE B.—(SECTION 36.)

MAXIMUM RATES OF TOLLS PAYABLE ON CARRIAGES AND ANIMALS PASSING ALONG ROADS WITHIN THE
CIRCLE.

	RS.	A.	P.
On every four-wheeled Carriage on springs.....	0	8	0
Do. two do. do.	0	4	0
Do. Jataka, hackery on springs, or cart drawn by men, buffaloes, bullocks, horses, ponies, asses, or mules, laden	0	4	0
Do. do. do. do. not laden	0	2	0
Do. Buffaloe, or bullock, laden	0	1	0
Do. Horse, laden or ridden	0	2	0
Do. do. not laden or ridden	0	1	0
Do. Pony or Ass, laden or ridden	0	1	0
Do. Elephant.....	1	0	0
Do. Camel	0	4	0

SCHEDULE C.—(SECTION 59.)

NOTICE OF DEMAND.

Take notice that the Collector of the _____ District demands from you the sum of _____ due from you to the Local Fund of _____ Circle for your house _____ in _____ for the year 18____, and that if the sum due is not paid into the office of _____ at _____ or if sufficient cause for the non-payment is not shown to him or to _____ within seven days from the service of this notice, a Warrant of Distress will be issued for the recovery of the same with costs.

Date

(Signature of the Collector.)

27/2/871

ACT No. VI. OF 1871.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE
IN COUNCIL.

[Received the assent of the Governor on the 7th February 1871;
and of the Governor-General on the 19th March 1871.]

An Act to enable the Government to levy a duty, by way of excise, on Salt manufactured in such Districts of the Presidency of Fort Saint George as the Government may think proper.

WHEREAS it is expedient that the Government should be enabled to levy a duty, by way of excise, on salt manufactured in such Districts of the Presidency of Fort Saint George as the Government may think proper; It is enacted as follows:—

1. The several Acts and Regulations mentioned in the Schedule A. hereunto annexed are hereby repealed, so far as regards any District or part of a District to which this Act may be extended.

2. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say:—

The word "Manufacture" shall include the preparation and collection of salt.

The word "Salt-work" shall mean any place used, or intended to be used, for the manufacture of salt.

The word "Salt-pan" shall mean any minor division of a Salt-work where the salt is made.

3. It shall be lawful for the Collector of any District in which this Act may be declared to be in force, under the sanction of the Board of Revenue, to grant licenses for the manufacture of salt within such District to such persons as he shall think fit. Such license shall contain the name of the person to whom it is given, and shall specify the pan or place at which the manufacture is to be carried on, and the place where the salt shall be stored, and shall embrace such conditions as the Board of Revenue may from time to time prescribe. A registry of such licenses shall be kept in the office of the Collector of the District.

4. In any such District or part of a District as above described, any person manufacturing, or attempting to manufacture, salt without a license, or violating the conditions of his license, or knowingly aiding any person in so doing, shall be punishable with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding three months, or with fine not exceeding five hundred rupees, or with both, and, in default of payment of any fine which may be imposed, shall be liable to a further period of imprisonment of either description not exceeding three months; and further, the manufacture may be suppressed, and the salt, together with all materials and implements used or intended to be used in manufacturing it, confiscated by the Collector.

5. In any District or part of a District as above described, every proprietor, tenant, under-tenant, and cultivator who

owns or holds land on which there shall be any manufacture of salt not licensed under the provisions of this Act, and every servant employed by Government, or by the Court of Wards, or by any private proprietor upon such land, shall, within ten days after the existence of such manufacture shall have come to his knowledge, give notice of the same to an Officer of the Magistracy or Police, or to a Revenue Officer of Government in such District. If any person bound to give notice under this Section shall wilfully omit or delay to give the same, he shall, for every such offence, be liable to a fine not exceeding five hundred rupees.

6. A license shall not, except as hereinafter-mentioned, be refused for manufacturing salt at any Salt-work belonging to a private proprietor, and which is being worked at the time of introducing such excise, or which may have been worked at any time within five years of its introduction. Provided that the Collector, under orders from the Board of Revenue, may withhold or withdraw a license for any Salt-work at which, on an average of the three last years preceding such order, five thousand Indian maunds of salt shall not have been produced and yearly sold.

7. The Collector may refuse to grant a license for any Salt-work newly proposed to be opened when the proposed place of manufacture is one to which he objects.

8. Nothing in the preceding Sections shall affect the right of parties to compensation for closing any Salt-work or Pan under the provisions of this Act as hereinafter provided.

9. The salt shall be stored at a spot or spots selected from time to time by the Collector or other Officer duly authorized by him as near as conveniently may be to the place of manufacture.

10. The Collector may station at each Salt-work one or more Officers for the due supervision of the manufacture, storage, and sale of salt, and for the collection of the excise duty; and such Officers shall have free passage over such works at all times.

11. An excise duty, at such rate as the Government, with the sanction of the Governor-General of India in Council, may from time to time determine, shall be levied on all salt manufactured in any District or part of a District to which this Act may be extended, and shall be paid under such orders as may from time to time be made by the Board of Revenue in this behalf; provided that no duty shall be leviable until the salt is about to be removed from the place of storage, and that no salt shall be removed without a permit authorizing its removal from store; and such permit shall specify the quantity to be removed, and the excise duty levied or due thereon.

12. Around each Salt-work and store, preventive stations shall be established by the Collector, at which the permit shall be delivered up, and the salt, if agreeing with the permit, allowed to pass, after which it shall not be liable to further interference on the part of the Government Officers.

13. Salt of any description not manufactured in any District in the Presidency of Fort Saint George, when imported by land into any District to which this Act may have been extended, shall be imported by certain routes only, to be notified in the *Fort Saint George Gazette*, and shall be charged with a duty of customs at such rate as may from time to time be prescribed

by law, which duty shall be leviable at such places on the frontier as the Government may decide; and, on such payment being made, a certificate shall be granted stating the quantity of salt passed and the customs duty levied, after which it shall not be liable to further interference on the part of the Government Officers.

14. In any District to which this Act may be extended, the Government shall determine, by notification published from time to time in the *Fort Saint George Gazette*, the ports at which it shall be lawful to import salt by sea; and, on payment of such duty as may from time to time be prescribed by law, a certificate shall be granted, as provided in the preceding Section.

15. Any person who shall evade payment of the duties imposed by this Act, or who shall remove any salt without the permits hereby rendered necessary, or who shall import salt by any route or at any port not legally sanctioned for that purpose, or who shall pass any salt imported without the proper certificates, or who shall fraudulently make, purchase, obtain, possess, sell, or weigh salt, whether such salt shall be the property of Government or not, or who shall attempt to commit any of the above acts, or who shall aid any person in such commission or attempt, shall be punishable, for every such offence, with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding three months, or with fine not exceeding five hundred rupees, or with both; and the salt shall be liable to confiscation, together with the vehicles, boats, animals, and packages employed in its conveyance.

16. In any District to which this Act shall be made applicable, it shall be lawful for a Magistrate, on application by a Police Officer or any other person, stating his belief

Magistrate may issue search-warrant on application.

that salt is manufactured in any place within such District or part of a District contrary to the provisions of this Act, or that contraband salt is kept or concealed in any house, boat, or place in such District or part of a District, to issue a warrant to search for such salt. Such warrant shall be directed and executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure.

17. Whenever any Officer in charge of a Police Station shall have reasonable cause to believe that salt is being manufactured in any place contrary to the provisions of this Act, or that contraband salt is kept or concealed in any house, boat, or place, and that the delay occasioned in obtaining a warrant from the Magistrate will prevent the discovery of such salt, such Officer may, between sunrise and sunset, but always in the presence of another Police Officer, enter into any such house, boat, or place, and, in case of resistance, may break open any door and remove any obstacle to such entry, and may seize and carry away all such salt so found, and all materials, implements, and vessels used or intended to be used in the manufacture or storage, and may arrest all persons concerned in the manufacture, or in the keeping and concealing of such salt. Provided that, whenever it shall be necessary to enter any house in such manner, the rules for entering a house in execution of a search-warrant, prescribed in the Code of Criminal Procedure, shall be observed by the Officer effecting such entry, and that immediate report of such entry shall be forwarded to the Magistrate of the Division.

18. Any Police Officer who shall vexatiously and unnecessarily enter into any house, boat, or place without reasonable cause for him to believe that contraband salt is kept or concealed in any such house, boat, or place, or who shall vexatiously and un-

necessarily seize the goods or chattels of any person on the pretence of seizing or searching for contraband salt, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess in the execution of his duty, shall be liable to a fine not exceeding five hundred rupees, or to simple imprisonment for a term not exceeding six months.

19. It shall be lawful for the Board of Revenue, under the orders of Government, from time to time, by public notification, to authorize Officers concerned in the collection of the salt revenue to grant time for the payment of duty, on such conditions and under such circumstances as may be declared; and every person to whom such time is allowed shall enter into a bond conditioned for double the amount of the duty ultimately payable, and with or without sureties, at the option of the Officer accepting the same; and such bond may be according to the form given in Schedule B. of this Act.

20. It shall be lawful for the Government, from time to time, by public notification, to direct that the whole or any part of the duties paid or payable upon salt under the provisions of this Act shall be returned or remitted to the holder thereof, on his undertaking to export the same to some specified place beyond the limit of the Presidency of Fort Saint George; and the person obtaining such remission or refund shall enter into a bond conditioned for double the amount of the duty so returned or remitted, and with or without sureties, at the option of the Officer accepting the same; and such bond may be according to the form given in Schedule C. of this Act.

21. Any sum due to Government on any bond given under either of the two preceding Sections may be recovered in the same manner as arrears of land revenue are, or may be recovered by law in the Madras Presidency.

22. All confiscations under this Act shall be adjudged by the Collector, subject to an appeal to the Board of Revenue within three months.

23. All offenders punishable with fine or imprisonment under this Act may be tried and convicted by any Magistrate who has jurisdiction over such offender, provided always that no such Magistrate may exceed the limits of his ordinary jurisdiction.

24. When any confiscation or penalty shall be adjudged under this Act, the Officer deciding the case may, at his discretion, award the whole, or any portion of the fine levied, or of the proceeds of any property confiscated, to the party who seized the property, or who gave the information which led to the conviction; provided always, that no money shall be paid over to such person during the time allowed for appeal, or pending the decision of the Board of Revenue on the appeal, where any shall have been preferred.

25. All fines paid or levied under this Act, and the proceeds of all confiscations made under this Act, and which may not have been awarded under the preceding Section, shall be at the disposal of the Board of Revenue to form a fund for rewarding the Police of such grades as may be determined by the said Board, and for rewarding informers, and for compensating persons subjected to annoyance or injury by any proceedings under this Act.

26. Whenever it shall appear advisable to a Collector, under orders of the Board of Revenue, to withhold or withdraw a license under Section six of this Act, he shall cause notice to be affixed at convenient places on or near the Salt-work or Pan where the manufacture is to be sup-

pressed, stating that it is intended to suppress the manufacture of salt in that work or pan, and that claims to compensation may be made to him.

The said notice shall specify the date on which the manufacture will be suppressed (such date to be not less than three months from the date of the notice), and shall require the registered proprietor of the Salt-work or Pan to appear personally or by agent before the Collector at a time and place therein mentioned (such time being not earlier than fifteen days after the service of the notice), and to state the amount and particulars of his claims to compensation.

The Collector shall also serve a notice to the like effect upon the registered proprietor of the salt-work, or upon his agent if residing within the revenue district in which such salt-work is situate. If neither the proprietor nor his agent reside within such revenue district, then such notice shall be sent by post to the last known residence of such proprietor or agent.

It shall not be necessary for the Collector to give any further notice to any one before suppressing the manufacture.

27. The manufacture of salt shall cease in any work or pan from and after the date specified in the notice issued by the Collector under the preceding Section, but the ownership of the land shall not be affected thereby.

28. The provisions of Madras Act III. of 1869 (*An Act to empower Revenue Officers to summon persons to attend at their Cutcherries for the settlement of matters connected with Revenue Administration*) shall be applicable to all proceedings under this Act not otherwise provided for.

29. On the day fixed in the notice for the appearance of the registered proprietor or his agent, the Collector shall proceed to inquire summarily into the market value of the Salt-work or Pan if sold free of all encumbrances, deducting the value, if any, of the land and of any buildings thereon which are capable of being applied to any other purpose than the manufacture of salt. The sum so arrived at shall be tendered by the Collector to the registered proprietor as the amount of compensation due in respect of such Salt-work or Pan.

30. If the Collector and the registered proprietor agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

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 amount of compensation allowed for such Salt-work or Pan.

31. If the Collector is unable to agree with the registered proprietor as to the amount of compensation to be allowed, or if such proprietor fails to attend, the Collector shall refer the matter to the determination of the Civil Court of the District in manner hereinafter appearing.

32. In making a reference under Section 31 the Collector shall state, for the information of the Court, in writing under his hand—

(a.) The situation and extent of the Salt-work or Pan to be suppressed.

(b.) The name of the registered proprietor.

(c.) The amount of compensation tendered under Section 29, and

(d.) The grounds on which the amount of compensation was determined.

33. The Court shall thereupon cause to be served on the person so named a notice requiring him (if he has not made a claim under Section 26) to state to the Court, on or before a day to be therein mentioned, the sum which he claims as compensation for the work or pan to be suppressed.

34. Every proceeding in pursuance of the notice given under Section 33 shall take place in open Court, and all persons entitled to practice in any Civil Court shall be entitled to appear, plead, or act, or to appear and act (as the case may be) in such proceeding.

35. In ascertaining the amount of compensation, the Court shall simply take into consideration the matter mentioned in Section 29.

36. Where the registered proprietor has made a claim to compensation pursuant to any notice mentioned in Section 26 or in Section 33, the amount awarded to him shall not exceed the amount so claimed, or be less than the amount tendered by the Collector under Section 29.

Where the registered proprietor 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 registered proprietor 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.

37. The costs of all proceedings taken under Sections 33 to 36 inclusive by order of the Court shall, in the first instance, be paid by the Collector.

Costs of proceedings taken by order of Court.

38. Where the amount awarded does not exceed the sum tendered by the Collector, the costs of all proceedings under the the said Sections shall be paid by the registered proprietor.

Registered proprietor to pay costs.

Where the amount awarded exceeds the sum so tendered, such costs shall be paid by the Collector.

39. Every award made under Section 36 shall be in writing, signed by the Judge.

Awards to be in writing.

It shall also state the amount of costs incurred in the proceedings before the Court, and by what persons and in what proportions they are to be paid.

Award to state amount of costs.

The costs (if any) so payable may be recovered from the party liable to pay the same, as if they were costs incurred in a suit, and as if the award were the decree therein.

Recovery of costs.

40. 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 inquiries, shall apply, so far as may be, to proceedings before the Court.

41. For the purposes of this Act the registered proprietor of any Salt-work or Pan shall be taken to be the full owner thereof, and shall be entitled to receive from the Collector all sums payable as compensation in respect of the same.

Payment of compensation to whom made.

Provided that nothing herein contained shall affect the liability of such registered proprietor to pay the whole or any part of such compensation to any person who may have any interest in, or lien upon, such Salt-work or Pan in proportion to the amount of such interest or lien.

Proviso.

42. No suit shall be brought to set aside an award under this Act.

Bar of suits to set aside awards.

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 six months from the accrual of the cause of suit or other proceeding.

Limitation of suits for anything done in pursuance of Act.

43. Where any legal proceedings are taken against any person for anything done, or intended to be done, under the provisions of this Act, it shall be lawful for the defendant to plead that the act complained of was done in good faith under the order of his superior Officer; and, upon establishing such plea, the defendant shall be entitled to a decree in his favour, although the superior Officer had no authority to make such order; provided always, that nothing in this Section shall affect any remedy which the party injured may have against the superior Officer who gave such order; provided also, that this Section shall not apply where a suit is brought against a Collector for acts done under the orders of the Government or of the Board of Revenue.

Plea that act was done under order of a superior.

44. The Board of Revenue, under the orders of the 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 revoke, alter, and add to any rule so made.

Power to make rules. All such rules, alterations, and additions shall be published in the *Fort Saint George Gazette* and shall thereupon have the force of law.

45. This Act shall take effect in any and every such District or part of a District as the Government shall from time to time appoint by notification published in the *Fort Saint George Gazette*.

46. In citing this Act in other Acts and in legal instruments, it shall be enough to use the expression, "The Madras Salt Excise Act of 1871."

SCHEDULE A.

Regulation I. of 1805.

„ II. of 1807.

Act XVII. of 1840.

„ VII. of 1852.

SCHEDULE B.

I, A. (or we, A. B., and C.,) acknowledge myself (or ourselves) to be bound to pay the Collector of the sum of Rupees (double the amount of the duty) on or before the (date); but the condition of this bond is, that if I (or we) pay the sum of Rupees

(the amount of duty) with interest at six per cent. from the (date fixed for payment) and cost of enforcing payment, then this bond shall be null and void.

Witness our hands A.

B.

C.

SCHEDULE C.

I, A. (or we, A., B., and C.,) acknowledge myself (or ourselves) to be bound to pay the Collector of the sum of Rupees (double the amount of duty remitted or returned) on or before the (date); but the condition of this bond is, that I, A. (or we) do export maunds of salt from the port of on or before the day of or do re-pay Rupees (the amount of duty remitted or returned) with interest at six per cent. from (the day of executing the bond,) then this bond shall be null and void.

Witness our hands A.

B.

C.

MADRAS.

ACT No. V. OF 1871.

PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

[Received the assent of the Governor on the 15th March 1871, and of the Governor-General on the 1st April 1871.]

An Act to amend Madras Act IX. of 1867 (the Madras Municipal Act of 1867).

WHEREAS it is expedient to enable the Municipal Commissioners for the Town of Madras to apply the funds raised under Madras Act IX of 1867 ("The Madras Municipal Act of 1867") to certain purposes not specified therein, and to amend certain provisions of the said Act; it is hereby enacted as follows:—

1. It shall be lawful for the Municipal Commissioners for the Town of Madras to apply, within the limits of the Municipality, the funds raised under Madras Act IX. of 1867 to the following purposes; that is to say:—

Purposes to which Municipal Funds are to be applied.

The diffusion of education, and, with this view, the construction and repair of school-houses, the establishment and maintenance of schools either wholly or in part by means of grants-in-aid, the inspection of schools, and the training of teachers; the construction and repair of hospitals and dispensaries, and the payment of charges connected with the objects for which such buildings have been constructed; the training and employment of vaccinators and other medical practitioners; the application of the Indian Contagious Diseases Act; and any local works of public utility calculated to promote the public health, comfort, or convenience.

2. The

Abolition of the Municipal contribution towards cost of the Police.

2. The funds raised under Madras Act IX. of 1867 shall not be applicable to the payment of Police, and Section 99 of the said Act is accordingly repealed.

Election of Commissioners by rate-payers.

3. If at any time it shall appear to the Government to be advisable that a certain number of the Municipal Commissioners shall be appointed by election by the rate-payers, it shall be competent to the Government to take measures for the election of such Municipal Commissioners, subject to such rules and orders as may be passed by the Government. The persons so elected shall continue in office three years, or until their successors have been elected, and shall be eligible for re-election. The Government may from time to time accept the resignation of any of the Commissioners so elected, or may remove any of such Commissioners for misconduct or neglect of duty.

Repeal of Sections 10, 11, 12 and 13 of Act IX. of 1867.

4. Sections 10, 11, 12 and 13 of Madras Act IX. of 1867 are hereby repealed.

Designation and salary of the Executive Officer.

5. The Officer appointed under Section 9 of Madras Act IX. of 1867 shall be styled the "President of the Municipal Commission for the Town of Madras." He shall receive such allowances out of the Municipal Fund to be raised under that Act as shall from time to time be fixed by the Government; provided that these allowances shall not exceed two thousand Rupees a month. He shall not follow any other occupation, and shall devote his whole time and attention to the duties of his office. Provided that such prohibition shall not be applicable to any person appointed to act as President during the absence of the permanent incumbent of the office for any period not exceeding three months.

Appointment of Executive Engineer, Sanitary Inspector, Assessor, and Collector of Municipal taxes.

6. As soon as may be after the coming into operation of this Act, the Government shall appoint an Executive Engineer, a Sanitary Inspector, an Assessor, and a Collector of Municipal Taxes; and the said Officers shall receive, out of the Municipal Fund, such salaries as may be fixed by Government, not exceeding the undermentioned rates:—

Executive Engineer, seven hundred Rupees per mensem.

Sanitary Inspector, seven hundred Rupees per mensem.

Assessor, five hundred Rupees per mensem.

Collector, five hundred Rupees per mensem.

Such Officers shall be removeable at the pleasure of Government, and shall not follow any other occupation, and shall devote the whole of their time and attention to the duties of their respective offices.

7. The