



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 30th March 1877, and is hereby promulgated for general information :—

ACT No. X OF 1877.

THE CODE OF CIVIL PROCEDURE.

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An Act to consolidate and amend the Laws relating to the Procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows :—

Preamble.

PRELIMINARY.

Short title.

1. This Act may be cited as "The Code of Civil Procedure;" and it shall come into force on the first day of October 1877.

Commencement.

This section and Section 3 extend to the whole of British India. The other sections extend to the whole of British India except the Scheduled Districts as defined in Act No. XIV of 1874.

Local extent.

Interpretation-clause.

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

"chapter."

"chapter" means a chapter of this Code :

"district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a 'District Court'), and includes the local limits of the ordinary original civil jurisdiction of a High Court: every Court of a grade inferior to that of a District Court and every Court of Small Causes shall, for the purposes of this Code, be deemed to be subordinate to the High Court and the District Court.

"district."

"District Court."

"pleader" means every person entitled to appear and plead for another in Court, and includes an advocate, a vakil, and an attorney of a High Court :

"pleader."

"Government Pleader" includes also any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader.

"Government Pleader."

"Collector."

"Collector" means every officer performing the duties of a Collector of land-revenue :

"judgment" means the statement given by the Judge as the grounds of the order or decree by which a suit or other judicial proceeding is determined :

"judgment."

"decree" means the formal order of the Court in which the result of the decision of the suit or other judicial proceeding is embodied. An order on appeal, remanding a suit for re-trial, is not within this definition :

"decree."

"Judge."

"Judge" means the presiding officer of a Court :

"judgment-debtor."

"judgment-debtor" means any person against whom a decree or order has been made :

"decree-holder" means any person in whose favor a decree or any order capable of execution has been made, and includes any person to whom such decree or order is transferred :

"decree-holder."

"written."

"written" includes printed and lithographed, and "writing" includes print and lithography :

"signed."

"signed" includes "marked" when the person making the mark is unable to write his name :

"foreign Court" means a Court situate beyond the limits of British India and not having authority in British India nor established by the Governor-General in Council :

"foreign Court."

"foreign judgment."

"foreign judgment" means the judgment of a foreign Court :

"public officer."

"public officer" means a person falling under any of the following descriptions (namely) :—

Every Judge ;

Every covenanted servant of Her Majesty ;

Every commissioned officer in the military or naval forces of Her Majesty while serving under Government ;

Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty.

And in any part of British India in which this Code operates, "Government" includes the Government of India as well as the Local Government.

3. The enactments specified in the first schedule hereto annexed are hereby repealed to the extent mentioned in the third column of the same schedule.

But when in any Act, Regulation or Notification passed or issued prior to the day on which this Code comes into force, reference is made to Act VIII of 1859, Act XXIII of 1861, or the 'Code of Civil Procedure,' or to any other Act hereby repealed, such reference shall, so far as may be practicable, be read as applying to this Code or the corresponding part thereof;

Nothing herein contained shall affect the procedure prior to decree in any suit instituted or appeal presented before this Code comes into force.

4. Save as provided in the second paragraph of Section 3, nothing herein contained shall be deemed to affect the following enactments (namely):—

The Central Provinces Courts Act, 1865 :

The Panjáb Courts Act, 1865 :

Act No. XXVII of 1867 :

The Oudh Civil Courts Act, 1871 :

The Panjáb Appeals Act, 1873 :

The Burma Courts Act, 1875 :

or any local law prescribing a special procedure for suits between landlord and tenant,

or any local law providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare

declare which of such officers shall for the purposes of this Code be deemed to be the District Court.

5. The chapters and sections of this Code specified in the second schedule hereto annexed extend (so far as they are applicable) to Courts of Small Causes constituted under Act No. XI of 1865. The other chapters and sections of this Code do not extend to such Courts. And nothing herein contained shall be deemed to enlarge the powers which such Courts now possess for the purposes of effecting attachments or executing decrees.

6. Nothing in this Code affects the jurisdiction or procedure—

(a) of Military Courts of Request ;

(a) of Military Courts of Request ;

(b) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázars at cantonments and stations occupied by the troops of that Presidency ; or

(c) of Village Munsifs and Village Pancháyats in Madras.

(c) of Village Munsifs or Village Pancháyats under the provisions of the Madras Code ;

(d) of Recorder of Rangoon sitting as an Insolvent Court.

(d) of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, Maulmain, Akyab or Bassein,

or shall operate to give any Court jurisdiction over suits of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. With respect to—

(a) the jurisdiction exercised by certain jágírdárs and other authorities invested with powers under the provisions of Bombay Regulation XIII of 1830 and Act XV of 1840 in the cases therein mentioned ; and

(b) cases of the nature defined in the enactments specified in the third schedule hereto annexed,

the procedure in such cases and in the appeals to the Civil Courts allowed therein, shall be according to the rules laid down in this Code, except where those rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

8. Save as provided in Sections 3, 25, 86, 223, 225, 386 and Chapter XXXIX, this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

But the Local Government may, by Notification published in the official Gazette

Gazette, extend to any such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

Division of Code.

9. This Code is divided into ten Parts as follows :—

- The first Part : Suits in General.
- The second Part : Incidental Proceedings.
- The third Part : Suits in particular Cases.
- The fourth Part : Provisional Remedies.
- The fifth Part : Special Proceedings.
- The sixth Part : Appeals.
- The seventh Part : Reference to and Revision by the High Court.
- The eighth Part : Review of Judgment.
- The ninth Part : Special Rules relating to the Chartered High Courts.
- The tenth Part : Certain Miscellaneous Matters.

PART I.—OF SUITS IN GENERAL.

CHAPTER I.—OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

No person exempt from jurisdiction by reason of descent or place of birth.

10. No person shall, by reason of his descent or place of birth, be in any civil proceeding exempted from the jurisdiction of any of the Courts.

11. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is barred by any enactment for the time being in force.

Explanation.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

12. Except where a suit has been stayed under Section 20, the Court shall not try any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India having jurisdiction to grant such relief, or in any Court beyond the limits of British India established by the Governor-General in Council and having like jurisdiction, or before Her Majesty in Council.

Explanation.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

13. No Court shall try any suit or issue, in which the matter directly and substantially in issue has been heard and finally decided by a Court of competent jurisdiction, in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title.

Res judicata.

Explanation I.—The matter above referred to must in the former suit have been alleged by one party and either denied or confessed, expressly or impliedly, by the other.

Explanation II.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation III.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purpose of this section, be deemed to have been refused.

Explanation IV.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

Explanation V.—Where persons litigate *bonâ fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

Explanation VI.—Where a foreign judgment is relied on, the production of the judgment duly authenticated is presumptive evidence that the Court which made it had competent jurisdiction, unless the contrary appear on the record; but such presumption may be removed by proving the want of jurisdiction.

When foreign judgment no bar to suit in British India.

14. No foreign judgment shall operate as a bar to a suit in British India—

- (a) if it has not been given on the merits of the case :
- (b) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India :
- (c) if it is in the opinion of the Court before which it is produced contrary to natural justice :
- (d) if it has been obtained by fraud :
- (e) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.—OF THE PLACE OF SUING.

Court in which suit to be instituted.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate.

16. Subject to the pecuniary or other limitations prescribed by any law, suits

- (a) for the recovery of immoveable property,
- (b) for the partition of immoveable property,
- (c) for the foreclosure or redemption of a mortgage of immoveable property,
- (d) for the determination of any other right to or interest to or in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that suits to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, when the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section ‘property’ means property situate in British India.

Suits to be instituted where defendants reside or cause of action arose.

17. Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

- (a) the cause of action arises, or
- (b) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or
- (c) any of the defendants, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain: provided that either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain as aforesaid acquiesce in such institution.

Explanation I.—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 reside

reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

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

Illustrations.

(a.) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b.) A resides at Simla, B at Calcutta, and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

18. In suits for compensation for wrong done to person or moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.

Illustrations.

(a.) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b.) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

(c.) A, travelling on the line of a Railway Company whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

19. If the suit be to obtain relief respecting, or compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be instituted in the Court within whose jurisdiction any portion of the property is situate; provided that, in respect of the value of the subject-matter of the suit, the entire claim be cognizable by such Court.

If the immoveable property be situate within the limits of different districts, the suit may be instituted in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate.

Suits for immoveable property situate in different districts.

20. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the defendants does not or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly;

and if the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

Every such application shall be made at the earliest possible opportunity, and in all cases before the issues are settled; and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

21. Where the Court, under Section 20, stays proceedings, and the plaintiff reinstitutes his suit in another Court, the plaint shall not be chargeable with any court-fee; provided that the proper fee has been levied on the institution of the suit in the former Court, and that the plaint has been returned by such Court.

22. Where a suit may be instituted in more Courts than one, and such Courts are subordinate to the same appellate Court, any defendant, after giving notice in writing to the other parties of his intention to apply to such Court to transfer the suit to another Court, may apply accordingly; and the appellate Court, after hearing the other parties, if they desire to be heard, shall determine in which of the Courts having jurisdiction the suit shall proceed.

23. Where such Courts are subordinate to different appellate Courts, but are subordinate to the same High Court, any defendant, after giving notice in writing to the other parties of his intention to apply to the High Court to transfer the suit to another Court having jurisdiction, may apply accordingly. If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such

Court is subordinate. The High Court may, after considering the objections, if any, of the other parties, determine in which of the Courts having jurisdiction the suit shall proceed.

24. Where such Courts are subordinate to different High Courts, any defendant may, after giving notice in writing to the other parties of his intention to apply to the High Court within whose jurisdiction the Court in which the suit is brought is situate, apply accordingly.

If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate,

and such High Court shall, after considering the objections, if any, of the other parties, determine in which of the several Courts having jurisdiction the suit shall proceed.

25. The High Court or District Court may, on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion, without giving such notice, withdraw any suit whether pending in a Court of first instance or in a Court of appeal subordinate to such High Court or District Court, as the case may be, and try the suit itself, or transfer it for trial to any other such subordinate Court competent to try the same in respect of its nature and the amount or value of its subject-matter.

For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER III.—OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the Court in disposing of the costs of the suit otherwise directs.

27. Where

27. Where a suit has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, if satisfied that the suit has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative, in respect of the same matter. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundis and promissory notes.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may, with the permission of the Court, sue or be sued, or may defend in such suit, on behalf of all parties so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such parties either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable), then by public advertisement, as the Court in each case may direct.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Nothing in this section shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

32. The Court may, on or before the first hearing, upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out;

and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely

completely to adjudicate upon and settle all the questions involved in the suit, be added.

No one to be added as plaintiff or as next friend without his consent.

No person shall be added as a plaintiff, or as the next friend of a plaintiff, without his own consent thereto.

Parties to suits instituted or defended under Section 30.

Any person on whose behalf a suit is instituted or defended under Section 30 may apply to the Court to be made a party to such suit.

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and (subject to the provisions of the Indian Limitation Act, Section 22) the proceedings as against them shall be deemed to have begun only on the service of such summons.

Conduct of suit.

The Court may give the conduct of the suit to such plaintiff as it deems proper.

33. Where a defendant is added, the plaint, if previously filed, shall, unless the Court direct otherwise, be amended in such manner as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants.

34. All objections for want of parties, or for joinder of parties who have no interest in the suit, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing; and any such objection not so taken shall be deemed to have been waived by the defendant.

35. When there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding under this Code: and in like manner when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding.

Authority to be in writing signed and filed.

The authority shall be in writing, signed by the party giving it, and shall be filed in Court.

Recognized Agents and Pleadors.

36. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except when otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf:

Provided

Provided that any such appearance shall be made by the party in person if the Court so direct.

Recognized agents.

37. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

Persons holding powers of-attorney from parties out of jurisdiction.

(a) persons holding general powers-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

Certificated mukhtárs.

(b) mukhtárs duly certificated under any law for the time being in force, and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs;

Persons carrying on trade or business for parties out of jurisdiction.

(c) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

Recognized agents in Panjáb, Oudh and Central Provinces.

Nothing in the former part of this section applies to the territories now administered respectively by the Lieutenant-Governor of the Panjáb, and the Chief Commissioners of Oudh and the Central Provinces; but in those territories the recognized agents of parties by whom such appearances, applications and acts may be made and done shall be such persons as the Local Government may from time to time, by notification in the official Gazette, declare in this behalf.

38. Processes served on the recognized agent of a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

The provisions of this Code for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

Appointment of pleader.

39. The appointment of a pleader to make or do any appearance, application or act as aforesaid shall be in writing, and such appointment shall be filed in Court.

When so filed, it shall be considered to be in force until revoked with the leave of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or all proceedings in the suit are ended so far as regards the client.

No

No advocate of any High Court established by Royal Charter shall be required to present any document empowering him to act.

40. Processes served on the pleader of any party or left at the office or ordinary residence of such pleader, relative to a suit or appeal, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents; and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

41. Besides the recognized agents described in Section 37, any person residing within the jurisdiction of the Court may be appointed an agent to receive process. agent to accept service of process.

Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a duly attested copy thereof, shall be filed in Court.

CHAPTER IV.—OF THE FRAME OF THE SUIT.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

Suit how to be framed.

43. Every suit shall include the whole of the claim arising out of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

Suit to include the whole claim.

If a plaintiff omit to sue for, or intentionally relinquish, any portion of his claim, he shall not afterwards sue for the portion so omitted or relinquished.

Relinquishment of part of claim.

A person entitled to more than one remedy in respect of the same claim may sue for all or any of his remedies; but if he omits (except with the leave of the Court obtained before the first hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

Omission to sue for one of several remedies.

Illustration.

A lets a house to B at a yearly rent of Rupees 1,200. The rent for the whole of the years 1874 and 1875 is due and unpaid. A sues B only for the rent due for 1875. A shall not afterwards sue B for the rent due for 1874.

44. Rule

44. *Rule a.*—No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immoveable property, or to obtain a declaration of title to immoveable property, except—

(a) claims in respect of mesne profits or arrears of rent in respect of the property claimed,

(b) damages for breach of any contract under which the property or any part thereof are or is held, and

(c) claims by a mortgagee to enforce any of his remedies under the mortgage.

Rule b.—No claim by or against an executor, administrator or heir as such, shall be joined with claims by or against him personally, unless the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir.

45. Subject to the rules contained in Section 44, the plaintiff may unite in the same suit several causes of action, and any plaintiffs having causes of action against the same defendant or defendants, may unite such causes of action in the same suit.

But if it appear to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may, at any time before the first hearing, of its own motion or on the application of the defendant, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under the second paragraph of this section.

46. Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit may at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

47. If, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Every

Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER V.—OF THE INSTITUTION OF SUITS.

Suits to be commenced by plaint.

48. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

49. The plaint must be distinctly written in the language of the Court; provided that if such language is not English, the plaint may (with the permission of the Court) be written in English;

Language of plaint.

but in such case, if the defendant so require, a translation of the plaint into the language of the Court shall be filed in Court.

Particulars to be contained in plaint.

50. The plaint must contain the following particulars:—

- the name of the Court in which the suit is brought;
- 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;
- a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;
- a demand of the relief which the plaintiff claims; and
- if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

In money-suits.

If the plaintiff seek the recovery of money, the plaint must state the precise amount, so far as the case admits.

In a suit for mesne profits: and in a suit for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant the plaint need only state approximately the amount sued for.

When the plaintiff sues in a representative character, the plaint should show, not only that he has an actual existing interest in the subject-matter, but that he has taken the steps necessary to enable him to institute a suit concerning it.

Where plaintiff sues as a representative.

Illustrations.

- A sues as B's executor. The plaint must state that A has proved B's will.
- A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.
- A sues as guardian of D, a Muhammadan minor. A is not D's guardian according to Muhammadan law and usage. The plaint must state that A has been specially appointed D's guardian.

The

The plaintiff must show that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

Defendant's interest and liability to be shown.

Illustration.

A dies leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaintiff must show that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

If the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaintiff must show the ground upon which exemption from such law is claimed.

Grounds of exemption from limitation law.

51. The plaintiff shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff or, with the permission of the Court, by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

Plaint to be subscribed and verified.

52. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

Contents of verification.

The verification shall be signed by the person making it, and when he makes it out of Court he shall sign it in the presence of a witness, who shall also sign it.

Verification to be signed and attested.

The Court shall examine such witness as to the fact of the signature, unless the person making the verification is present.

53. The plaintiff may, at the discretion of the Court, and at or before the first hearing, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court thinks fit,

When the plaintiff may be rejected, returned for amendment, or amended.

- (a) if it do not state correctly and without prolixity the several particulars hereinbefore required to be specified therein; or
- (b) if it contain any particulars other than those so required; or
- (c) if it be not subscribed and verified as hereinbefore required; or
- (d) if it do not disclose a cause of action; or
- (e) if it is not framed in accordance with Section 42; or
- (f) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit.

Provided

Proviso.

Provided that a plaintiff cannot be altered so as to convert a suit of one character into a suit of another and inconsistent character.

Attestation of amendment.

When a plaintiff is amended, the amendment shall be attested by the signature of the Judge.

When the plaintiff shall be rejected.

54. The plaintiff shall be rejected in the following cases:—

- (a) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (b) if the relief sought is properly valued, but the plaintiff is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (c) if the suit appear from the statement in the plaintiff to be barred by any positive rule of law;
- (d) if the plaintiff having been returned for amendment within a time fixed by the Court is not amended within such time.

Procedure on rejecting a plaintiff.

55. When a plaintiff is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order.

When rejection of plaintiff does not preclude presentation of fresh plaintiff.

56. The rejection of the plaintiff on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaintiff in respect of the same cause of action.

When the plaintiff shall be returned to be presented to the proper Court.

57. The plaintiff shall be returned to be presented to the proper Court in the following cases:

- (a) If a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law;
- (b) If, in a suit relating to immoveable property, but not coming under the proviso to Section 16, it appear that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaintiff is presented;
- (c) If, in any other case, it appear that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

On

On returning a Procedure on returning
plaint. plaint, the Judge shall, with his own hand, endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reason for returning it.

58. The plaintiff shall endorse on the plaint, or annex thereto, a memorandum Procedure on admitting
plaint. of the documents (if any) which he has filed along with it; and if the plaint be admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permit him to present a like number of concise Concise statements. statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall present such statements.

If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

The chief ministerial officer of the Court shall sign such memorandum and copies or statements if, on examination, he finds them to be correct.

The Court shall also cause the particulars mentioned in Section 50 to be Register of suits. entered in a book to be kept for the purpose and called the Register of civil suits. Such entries shall be numbered in every year according to the order in which the plaint is admitted.

59. If a plaintiff sue upon a document in his possession or power, he shall Production of document
on which plaintiff sues. produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint. Delivery of document or
copy.

If he rely on any other documents (whether in his possession or power or not) List of other documents. as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

60. In the case of any such document not in his possession or power, he shall, if possible, state in whose possession or power it is. Statement in case of
documents not in his posses-
sion or power.

61. In case of any suit founded upon a bill of exchange or other negotiable Suits on lost negotiable
instruments. instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court

Court may make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

62. If the document on which the plaintiff sues be an entry in a shop-book or Production of shop-book. other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies.

The Court, or such officer as it appoints in this behalf, shall forthwith mark Original entry to be
marked and returned. the document for the purpose of identification; and after examining and comparing the copy with the original and attesting the copy if found correct, shall return the book to the plaintiff and cause the copy to be filed.

63. A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added Inadmissibility of docu-
ment not produced when
plaint filed. or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant, or handed to a witness merely to refresh his memory.

CHAPTER VI.—OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

64. When the plaint has been registered, and the copies or concise statements Summons. required by Section 58 have been filed, a summons may be issued to each defendant to appear and answer the claim on a day to be therein specified, or as soon thereafter as may be practicable,

- (a) in person, or
- (b) by a pleader duly instructed and able to answer all material questions relating to the suit, or
- (c) by a pleader accompanied by some other person able to answer all such questions.

Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

65. Every

Copy or statement annexed to summons.

65. Every such summons shall be accompanied with one of the copies or concise statements mentioned in Section 58.

Court may order defendant or plaintiff to appear in person.

66. If the Court see reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

If the Court see reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

No party to be ordered to appear in person unless resident within 50 or, where there is a railway, 200 miles.

67. No party shall be ordered to appear in person unless he resides

(a) within the local limit of the Court's ordinary original jurisdiction, or

(b) without such limits and at a place less than fifty, or, where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate, two hundred miles from the Court-house.

68. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly:

Summons to be either to settle issues or for final disposal.

Provided that, in every suit cognizable by Courts of Small Causes, the summons shall be for the final disposal of the suit.

69. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

Fixing day for appearance of defendant.

What shall be deemed 'sufficient time' must be determined with reference to the circumstances of the case.

70. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

Summons to order defendant to produce documents required by plaintiff or relied on by defendant.

On issue of summons for final disposal, parties to be directed to produce their witnesses.

71. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

Service

Service of Summons.

Delivery of summons for service.

72. The summons shall be delivered to the proper officer of the Court, to be served by him or one of his subordinates.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

Mode of service.

Service on several defendants.

74. When there are more defendants than one, service of the summons shall be made on each defendant:

Provided that, if the defendants are partners, and the suit relates to a partnership-transaction or to an actionable wrong in respect of which relief is claimable from the firm, the service may be made, unless the Court directs otherwise, either (a) on one defendant for himself and for the other defendants, or (b) on any person having the management of the business of the partnership at the principal place, within the local limits of the Court's ordinary original civil jurisdiction, of such business.

75. Whenever it may be practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable, or on his agent.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

Service on agent by whom defendant carries on business.

For the purpose of this section, the master of a ship is the agent of his owner or charterer.

77. In a suit to obtain relief respecting, or compensation for wrong to, immoveable property, if the service cannot be made on the defendant in person, and the defendant have no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

Service on agent in charge, in suits for immoveable property.

78. If in any suit the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

When service may be on male member of defendant's family.

Explanation.—A servant is not a member of the family within the meaning of this section.

79. When the serving officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

Person served to sign acknowledgment.

80. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons, or if the serving officer cannot find the defendant, and there is no agent or cannot be found, empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

the serving officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides and then return the original to the Court from which it issued, with an endorsement thereon stating that he has so affixed the copy and the circumstances under which he did so.

81. The serving officer shall, in all cases in which the summons has been served under Section 79, endorse, or cause to be endorsed on the original summons, the time when and the manner in which the summons was served.

Endorsement of time and manner of service.

82. When a summons is returned under Section 80, the Court shall examine the serving officer on oath touching his proceedings and may make such further inquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Examination of serving officer.

Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding the service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

Substituted service.

Effect of substituted service.

When service is substituted, time for appearance to be fixed.

83. The service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

84. Whenever service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

85. If the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept the service of the summons, such Court shall send the summons, either by one of its officers or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.

The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court from which it originally issued, together with the record (if any) made under this paragraph.

86. Whenever any process issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such town, it shall be sent to the Court of Small Causes within whose jurisdiction the process is to be served,

Service within Presidency towns and Rangoon of process issued by Mufassal Courts.

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself, and shall then return the process to the Court from which it issued.

87. If the defendant be in jail, the summons shall be delivered to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

Service on defendant in jail.

The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the jail and by the defendant.

88. If the jail in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such jail, and such officer shall cause the summons to be served upon the defendant, and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon, and signed as provided in Section 87.

Procedure if jail be in a different district.

89. If the defendant resides out of British India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situated.

Service when defendant resides out of British India and has no agent to accept service.

90. If there be a British Resident or Agent of Government in or for the territory in which the defendant resides, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent return the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of the service.

91. The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge or such officer as he appoints in this behalf, when the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in Section 92, shall be treated in all respects as a summons.

92. When a letter is so substituted for a summons, it may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the defendant has an agent empowered to accept service of summons, in which case the letter may be delivered or sent to such agent.

Service of Process.

93. Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

The court-fee leviable for such service shall be levied before the process is issued.

94. All notices and orders required by this Code to be given to or served on any person shall be in writing, and shall be served in the manner hereinbefore provided for the service of summons.

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid before the communication is forwarded.

CHAPTER VII.—OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective pleaders, and the suit shall then be heard, unless the hearing be adjourned to a future day fixed by the Court.

97. If on the day so fixed for the defendant to appear and answer, it be found that the summons has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee leviable for such service, the Court may order that the suit be dismissed:

Provided that no such order shall be passed, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person or by a duly authorized agent, when he is allowed to appear by agent.

98. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

99. Whenever a suit is dismissed under Section 97 or Section 98, the plaintiff may (subject to the law of limitation) bring a fresh suit; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for his not paying the court-fee required within the time allowed for the service of the summons or for his non-appearance, as the case may be, the Court shall pass an order to set aside the dismissal and appoint a day for proceeding with the suit.

100. If the plaintiff appears and the defendant does not appear, the procedure shall be as follows:

(a) If it is proved that the summons was duly served, the Court may proceed *ex parte*:

(b) If it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant:

(c) If it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the

the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

If it is owing to the plaintiff's default that the summons was not served in sufficient time, the Court shall order him to pay the costs occasioned by such postponement.

101. If the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

102. If the defendant appears and the plaintiff does not appear, the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

103. When a suit is wholly or partially dismissed under this section, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside; and if it be proved that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall set aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

No order shall be made under the second paragraph of this section unless the plaintiff has served the defendant with notice in writing of his application.

104. If, on the day fixed for the hearing of a suit against a defendant residing out of British India, who has no agent empowered to accept service of summons, or on any day to which the hearing has been adjourned, the defendant does not appear, the plaintiff may apply to the Court for permission to proceed with his suit, and the Court may direct that the plaintiff be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

105. If there be more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, and pass such order as it thinks fit.

106. If

106. If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit shall proceed, and the Court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

107. If a plaintiff or defendant, who has been ordered to appear in person under the provisions of Section 66 or Section 436, does not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

Of setting aside Decrees ex parte.

108. In any case in which a decree is passed *ex parte* against a defendant under Section 100, he may apply to the Court by which the decree was made for an order to set it aside;

and if it be proved to the satisfaction of the Court that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs, payment into Court, or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit.

109. No decree shall be set aside on any such application as aforesaid, unless notice thereof in writing has been served on the opposite party.

CHAPTER VIII.—OF WRITTEN STATEMENTS AND SET-OFF.

110. The parties may, at any time before or at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements and place them on the record.

111. If in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, and if in such claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards, unless permitted by the Court, tender a written statement containing the particulars of the debt sought to be set-off.

The

The Court shall thereupon inquire into the same, and if it find that the case fulfils the requirements of the former part of this section, and that the amount claimed to be set-off does not exceed the pecuniary limits of its jurisdiction, the Court shall set-off the one debt against the other.

Such set-off shall have the same effect as a plaint in a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the cross-claim; but it shall not affect the lien upon the amount decreed of any pleader in respect of the costs payable to him under the decree.

Illustrations.

(a) A bequeaths Rs. 2,000 to B, and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D. Then D sues C for the legacy. C cannot set-off the debt of Rs. 1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(b) A dies intestate and in debt to B. C takes out administration to A's effects, and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set-off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(c) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set-off. The amount not being ascertained cannot be set-off.

(d) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set-off.

(e) A sues B for compensation on account of a trespass. B holds a promissory note for Rs. 1,000 from A and claims to set-off that amount against any sum that A may recover in the suit. B may do so, for as soon as A recovers, both sums are definite pecuniary demands.

(f) A and B sue C for Rs. 1,000. C cannot set-off a debt due to him by A alone.

(g) A sues B and C for Rs. 1,000. B cannot set-off a debt due to him alone by A.

(h) A owes the partnership firm of B and C Rs. 1,000. B dies leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set-off the debt of Rs. 1,000.

No written statement to be received after first hearing unless called for by Court.

112. Except as provided in the last preceding section, no written statement shall be received after the first hearing of the suit:

Provided that the Court may at any time require a written statement, or additional written statement, from any of the parties, and fix a time for presenting the same:

Provided also that a written statement, or an additional written statement, may, with the permission of the Court, be received at any time for the purpose of answering written statements so required and presented.

113. If

113. If any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pass a decree against him, or make such other order in relation to the suit as it thinks fit.

114. Written statements shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he either admits or believes he will be able to prove.

Every such statement shall be divided into paragraphs, numbered consecutively, and each paragraph containing as nearly as may be a separate allegation.

115. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

The provisions of Section 52 as to examining witnesses as to the fact of signature shall apply in the case of written statements.

116. If it appear to the Court that any written statement, whether called for by the Court or spontaneously tendered, is argumentative or prolix, or contains matter irrelevant to the suit, the Court may amend it then and there, or may, by an order to be endorsed thereon, reject the same, or return it to the party by whom it was made for amendment within a time to be fixed by the Court, imposing such terms as to costs or otherwise as the Court thinks fit.

When any amendment is made under this section, the Judge shall attest it by his signature.

When a statement has been rejected under this section, the party making it shall not present another written statement, unless it be expressly called for or allowed by the Court.

CHAPTER IX.—OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. At the first hearing of the suit, the Court shall ascertain from the defendant or his pleader whether he admits or denies the allegations of fact made in the plaint and shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the written statement (if any) of the opposite party.

party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

118. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court; and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

119. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

120. If the pleader of any party who appears by a pleader refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall appear in person on such day.

If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

CHAPTER X.—OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

121. Any party may at any time by leave of the Court, deliver through the Court interrogatories in writing for the examination of the opposite party, or where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record.

122. Interrogatories delivered under Section 121 shall be served on the pleader (if any) of the party interrogated or in the manner hereinbefore provided for the service of summons, and the provisions of Sections 79, 80, 81 and 82 shall, in the latter case, apply so far as may be practicable.

123. The

123. The Court, in adjusting the costs of the suit, shall, at the instance of any party, inquire or cause inquiry to be made into the propriety of delivering such interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

124. If any party to a suit be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in his own name or in the name of any officer or other person, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company or body, and an order may be made accordingly.

125. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is irrelevant, or is not put *bonâ fide* for the purposes of the suit, or that the matter inquired after is not sufficiently material at that stage of the suit, or on any other like ground.

126. Interrogatories shall be answered by affidavit to be filed in Court within ten days from the service thereof or within such further time as the Judge may allow.

127. If any person interrogated omits or refuses to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further either by affidavit or by *vivâ voce* examination as the Judge may direct: Provided that the Judge shall not require an answer to any interrogatory which in his opinion need not have been answered under Section 125.

128. Either party may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the suit.

The admission shall also be made in writing, signed by the other party or his pleader and filed in Court.

If such notice be not given, no costs of proving such document shall be allowed, unless the Judge otherwise orders.

If

If such notice is not complied with within four days after its being served, and the Judge thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the suit.

129. The Court may, at any time during the pendency therein of any suit, order any party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit, and any party to the suit may, at any time before the first hearing, apply to the Court for a like order.

Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

130. The Court may, at any time during the pendency therein of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit or proceeding as the Court thinks right; and the Court may deal with such documents when produced in such manner as appears just.

131. Every party to a suit may at any time before or at the hearing thereof give notice through the Court to any other party in whose complaint, written statement or affidavits reference is made to any document, to produce such document in the presence of such officer as the Court appoints in this behalf, for the inspection of the party giving such notice or of his pleader, and to permit such party or pleader to take copies thereof.

No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

132. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the Court to the party giving the same a notice stating a time within three days from such delivery at which the documents or such of them as he does not object to produce, may be inspected at his pleader's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

133. If

133. If any party served with notice under Section 131 omits to give notice under Section 132 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the Court for an order of inspection.

134. Except in the case of documents referred to in the complaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such applications shall be founded upon an affidavit showing (a) of what documents inspection is sought, (b) that the party applying is entitled to inspect them, and (c) that they are in the possession or power of the party against whom the application is made.

135. If the party from whom discovery of any kind or inspection is sought, objects to the same or any part thereof, and if the Court is satisfied that the right to such discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the Court may order that the issue or question be determined first and reserve the question as to the discovery or inspection.

136. If any party fail to comply with any order under this chapter to answer interrogatories or for discovery or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered;

and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect, and the Court may make such order accordingly.

Any party failing to comply with any order under this chapter to answer interrogatories or for discovery or inspection which has been served personally upon him, shall also be deemed guilty of an offence under Section 188 of the Indian Penal Code.

137. The Court may, of its own accord, and may, in its discretion, upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his pleader, showing how the record

record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

Nothing contained in this section shall be deemed to enable the Court to use in evidence any document which under the Indian Evidence Act would be inadmissible in the suit.

138. The parties or their pleaders shall bring with them and have in readiness at the first hearing of the suit, to be produced when called for by the Court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court at any time before such hearing has ordered to be produced.

139. No documentary evidence in the possession or power of any party the production of which has been called for under Section 138, and which has not been produced, shall be received at any subsequent stage of the proceedings unless good cause be shown to the satisfaction of the Court for the non-production thereof. And the Judge receiving any such evidence shall record his reasons for so doing.

140. The Court shall receive the documents respectively produced by the parties at the first hearing, provided that the documents produced by each party be accompanied by an accurate list thereof prepared in such form as the High Court may from time to time direct.

The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

141. No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence for the time being in force. Every document so proved or admitted shall be endorsed with the number and title of the suit, the name of the person producing it, and the date on which it was produced. The Judge shall then endorse with his own hand a statement that it was proved against or admitted by (as the case may be) the person against whom it is used. The document shall then be filed as part of the record :

Provided that, if the document be an entry in a shop-book or other book, the party on whose behalf such book is produced may furnish a copy of the entry, which may be endorsed as aforesaid, and shall

shall be filed as part of the record, and the Court shall mark the entry and shall then return the book to the person producing it.

All documents produced at the first hearing and not so proved or admitted shall be returned to the parties respectively producing them.

142. When a document so proved or admitted is relied on as evidence by either party, but the Court considers it inadmissible, it shall be further endorsed with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

The document shall then be returned to the party who produced it.

143. Notwithstanding anything contained in Sections 62, 141 and 142, the Court may, if it see sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

144. In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal from the decree has elapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit, and placed on the record, shall, unless the document is impounded under Section 143, be entitled to receive back the same :

Provided that a document may be returned at any time before either of such events, if the person applying for such return delivers to the proper officer a certified copy of such document to be substituted for the original :

Provided also that no document shall be returned which, by force of the decree, has become void or useless.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt-book to be kept for the purpose.

145. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

CHAPTER XI.—OF THE SETTLEMENT OF ISSUES.

Framing of issues.

146. Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue.

Each material proposition affirmed by one party and denied by the other must form the subject of a distinct issue.

Issues are of two kinds : (a) issues of fact, (b) issues of law.

At the first hearing of the suit, the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to the Court to depend.

When issues both of law and of fact arise in the same suit, and the Court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Nothing in this section requires the Court to frame and record issues when the defendant at the first hearing of the suit makes no defence.

Allegations from which issues may be framed.

147. The Court may frame the issues from all or any of the following materials :—

(a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties or persons ;

(b) allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit ;

(c) the contents of documents produced by either party.

148. If the Court be of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may (subject to the rules contained in the Indian Evidence Act) compel the attendance of any person or the production of any document by the person in whose hands it may be, by summons or other process.

Court may examine witnesses or documents before framing issues.

149. The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the controversy between the parties shall be so made or framed.

Power to amend, add and strike out issues.

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The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

150. When the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing

Questions of fact or law may by agreement be stated in the form of an issue.

(a) that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement,

(b) that upon such finding some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct, or

(c) that upon such finding one or more of the parties shall do or abstain from doing some particular act, specified in the agreement, and relating to the matter in dispute.

Court if satisfied that the agreement was executed in good faith may pronounce judgment.

151. If the Court be satisfied, after making such inquiry as it deems proper,

(a) that the agreement was duly executed by the parties,

(b) that they have a substantial interest in the decision of such question as aforesaid, and

(c) that the same is fit to be tried and decided, it may proceed to record and try the issue, and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court ;

and may, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement ;

and upon the judgment so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER XII.—DISPOSAL OF THE SUIT AT THE FIRST HEARING.

If parties are not at issue on any question of law or fact.

152. If at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

153. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or fact, the Court may at once pronounce judgment for or against such defendant, and the suit shall proceed only against the other defendants.

If one of several defendants be not at issue with the plaintiff.

154. When the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court be satisfied that no further argument or evidence than the parties can at once supply is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues,

If parties are at issue on questions of law or fact.

and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Court may determine issue and pronounce judgment.

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them object.

If the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument as the case requires.

155. If the summons has been issued for the final disposal of the suit, and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment,

If either party fails to produce his evidence, Court may pronounce judgment.

Procedure where Court cannot pronounce judgment at first hearing.

or may if it thinks fit, after framing and recording issues under Section 146, adjourn the suit for the production of such evidence as may be necessary to its decision upon such issues.

CHAPTER XIII.—OF ADJOURNMENTS.

156. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to any of them, and may from time to time adjourn the hearing of the suit.

Court may grant time, or adjourn hearing.

In all such cases the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Costs of adjournment.

Provided

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.

157. If, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Chapter VII, or make such other order as it thinks fit.

Procedure if parties fail to appear on day fixed.

158. If any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

Court may proceed notwithstanding either party fails to produce his evidence.

CHAPTER XIV.—OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. The parties may, after the summons has been delivered for service on the defendant, whether it be for the settlement of issues only, or for the final disposal of the suit, obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such settlement or disposal, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce documents.

Summons to attend to give evidence or produce documents.

160. The party applying for a summons shall before the summons is granted, and within a period to be fixed by the Court, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the Court in which he is required to attend, and for one day's attendance.

Expenses of witnesses to be paid into Court on applying for summons.

If the Court be subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by competent authority.

Scale of expenses.

161. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons if it can be served personally.

Tender of expenses to witness.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account; and, in case

Procedure where insufficient sum paid in.

of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

If it be necessary to detain the person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned, to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of the party at whose instance he was summoned; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

163. Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

164. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

165. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in manner hereinbefore prescribed for the service of summons on the defendant; and the rules contained in Chapter VI as to proof of service shall apply in the case of all summonses served under this section.

167. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

168. If

168. If the serving-officer certify to the Court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the Court shall examine the serving-officer on oath touching the non-service:

and upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the Court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the attachment of the property of the person whose attendance is required, to such amount as the Court thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under Section 170:

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

169. If, on the attachment of his property, such person appears and satisfies the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

170. If such person does not appear, or appearing, fails to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may impose upon him such fine not exceeding five hundred rupees as the Court thinks fit, having regard to his condition in life and all the circumstances of the case, and may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any:

Provided that if the person whose attendance is required pays into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

171. Subject

171. Subject to the rules of this Code as to attendance and appearance and to the provisions of the Indian Evidence Act, if the Court at any time thinks it necessary to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

172. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

173. No person so summoned and attending shall depart unless and until (a) he has been examined or has produced the document and the Court has risen, or (b) he has obtained the Court's leave to depart.

174. If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of Section 173, the Court may order him to be arrested and brought before the Court:

Provided that no such order shall be made when the Court has reason to believe that the person so failing had a lawful excuse for such failure.

When any person so brought before the Court fails to satisfy it that he had a lawful excuse for not complying with the summons, the Court may sentence him to fine not exceeding five hundred rupees.

Explanation.—Non-payment or non-tender of a sum sufficient to defray the expenses mentioned in Section 160 shall be deemed a lawful excuse within the meaning of this section.

If any person so apprehended and brought before the Court cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given, may release him.

175. If

175. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the Court, the provisions of Sections 168, 169 and 170 shall, *mutatis mutandis*, apply.

176. No one shall be bound to attend in person to give evidence or to be examined in Court unless he resides—

- (a) within the local limits of its ordinary original jurisdiction, or
- (b) without such limits and at a place less than fifty or (where there is railway communication for five-sixths of the distance between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

177. If any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence, or to produce any document then and there in his actual possession or power, the Court may in its discretion either pass a decree against him, or make such other order in relation to the suit as the Court thinks fit.

178. Whenever any party to a suit is required to give evidence or to produce a document, the rules as to witnesses contained in this Code shall apply to him so far as they are applicable.

CHAPTER XV.—OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. On the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

Explanation.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

180. The other party shall then state his case and produce his evidence (if any).

The party beginning is then entitled to reply.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence

on

on those issues or reserve it by way of answer to the evidence produced by the other party. In the latter case the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning ; but the party beginning will then be entitled to reply generally on the whole case.

181. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge.

182. In cases in which an appeal is allowed, the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties or their pleaders, and the Judge shall, if necessary, correct the same and shall sign it.

183. If the evidence is taken down under Section 182 in a language different from that in which it was given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given.

184. In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

185. Where English is not the language of the Court, but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down with his own hand.

186. The Court may of its own motion or on the application of any party or his pleader take down, or cause to be taken down, any particular question and answer, or any objection to any question, if there appear any special reason for so doing.

187. If any question put to a witness be objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

188. The

Remarks on demeanour
of witnesses.

188. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Memorandum of evidence
in unappealable cases.

189. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length ; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Judge unable to make
such memorandum to record
reason of his inability.

190. If the Judge be rendered unable to make a memorandum as above required by this chapter, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

Every memorandum so made shall form part of the record.

Power to deal with evi-
dence taken down by Judge
removed before conclusion
of suit.

191. Where the Judge taking down any evidence, or causing any memorandum to be made under this chapter, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such evidence or memorandum as if he himself had taken it down or caused it to be made.

Power to examine witness
immediately.

192. If a witness be about to leave the jurisdiction of the Court, or if other sufficient cause be shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient of the day fixed for the examination shall be given to the parties.

The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and may then be read at any hearing of the suit.

Court may recall and
examine witness.

193. The Court may at any stage of the suit recall any witness who has been examined and who has not departed in accordance with Section 173, and may (subject to the provisions of the Indian Evidence Act) put such questions to him as the Court thinks fit.

CHAPTER XVI.—OF AFFIDAVITS.

194. Any Court of first instance and any Appellate Court may at any time ^{Power to order any point to be proved by affidavit.} for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

195. Upon any application evidence may be given by affidavit, but the Court ^{When evidence may be given by affidavit.} may at the instance of either party order the attendance for cross-examination of the declarant.

Such attendance shall be in Court unless the declarant is exempted under this Code from personal appearance in Court, or the Court otherwise directs.

196. Affidavits shall be confined to such facts as the declarant is able of his ^{Matters to which affidavits shall be confined.} own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds thereof be set forth.

The cost of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party producing the same.

^{Oath of declarant by whom to be administered.} 197. In the case of any affidavit under this Code—

- (a) any Court or Magistrate, or
- (b) any officer whom a High Court may appoint in this behalf, or
- (c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf, may administer the oath of the declarant.

CHAPTER XVII.—OF JUDGMENT AND DECREE.

198. The Court, after the evidence has been duly taken and the parties have ^{Judgment when pronounced.} been heard either in person or by their respective pleaders or recognised agents, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

199. A Judge

^{Power to pronounce judgment written by Judge's predecessor.}

199. A Judge may pronounce a judgment written by his predecessor, but not pronounced, and in such case he shall not be bound by Section 198, except as to giving notice.

^{Language of judgment.}

200. The judgment shall be written in the language of the Court, or in English, or in the Judge's mother-tongue.

^{Translation of judgment.}

201. Whenever the judgment is written in any language other than that of the Court, the judgment shall, if any of the parties so require, be translated into the language of the Court, and the translation shall also be signed by the Judge or such officer as he appoints in this behalf.

^{Judgment to be dated and signed.}

202. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it, and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review.

^{Judgments of Small Cause Courts.}

203. The judgments of the Courts of Small Causes need not contain more than the points for determination and the decision thereupon.

^{The judgments of other Courts.}

of all other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

^{Court to state its decision on each issue. Exception.}

204. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

205. The decree shall bear date the day on which the judgment was pronounced; and when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

^{Date of decree.}

206. The decree must agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the register, and shall specify clearly the relief granted or other determination of the suit.

^{Contents of decree.}

The decree shall also state the amount of costs incurred in the suit, and by what parties and in what proportions such costs are to be paid.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, ^{Power to amend decree.} of its own motion or on that of any of the parties, amend the decree

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decree so as to bring it into conformity with the judgment or to correct such error : provided that reasonable notice have been given to the parties or their pleaders of the proposed amendment.

207. When the subject-matter of the suit is immoveable property, and such property is identified by boundaries, or numbers in a record of settlement or survey, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries or number of such portion.

208. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

210. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments, with or without interest.

And after the passing of any such decree the Court may, on the application of the judgment-debtor, and with the consent of the decree-holder, order that the amount decreed be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him, or otherwise, as it thinks fit :

Save as provided in this section and Section 206, no decree shall be altered at the request of parties.

211. When the suit is for land or other property yielding rent or other profit, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favor the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

Explanation.—‘ Mesne profits ’ of property mean those profits which the person in

in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom.

212. When the suit is for immoveable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount by the decree itself, or may pass a decree for the property and direct an inquiry into the amount of mesne profits, and dispose of the same on further orders.

213. When the suit is for an account of any property and for its due administration under the decree of the Court, the Court, before making the decree, shall order such accounts and inquiries to be taken and made, and give such other directions as it thinks fit.

In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent.

And all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Applications under Section 265 of the Indian Contract Act, 1872, shall be deemed to be suits within the meaning of this section.

214. When the suit is to enforce a right of pre-emption in respect of a particular sale of property, and the Court finds for the plaintiff, if the amount of purchase-money has not been paid into Court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase-money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid, the suit shall stand dismissed with costs.

215. When the suit is for the dissolution of a partnership, the Court, before making its decree, may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

216. If the defendant has set-off the amount of a debt against the claim of the plaintiff, and such set-off has been allowed, the decree shall state what amount is due to the plaintiff and what amount (if any)

any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

217. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

CHAPTER XVIII.—OF COSTS.

218. When disposing of any application under this Code, the Court may give to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

219. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.

220. The Court shall have full power to give and apportion costs of every application and suit in any manner it thinks fit, and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power :

Provided if the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

221. The Court may direct that the costs payable to one party by another shall be set off against a sum which is admitted or is found in the suit to be due from the former to the latter,

but such direction shall not affect the lien upon the amount decreed of any pleader in respect of the costs payable to him under the decree.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum and may direct that costs, with or without interest, be paid out of or charged upon the subject-matter of the suit.

CHAPTER XIX.—OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.

223. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,

- (a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or
- (b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or
- (c) if the decree direct the sale of immoveable property situate outside the district within which the Court which passed it is situate, or
- (d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

The Court to which a decree is sent under this section for execution shall certify to the Court which passed it, the fact of such execution, or where the former Court fails to execute the same, the circumstances attending such failure.

If the decree has been passed in a case cognizable by a Court of Small Causes and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the local Court of Small Causes the copies and certificate respectively mentioned in clauses (a), (b) and (c) of Section 224; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

If the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But if the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

Procedure when Court desires that its own decree shall be executed by another Court.

224. The Court sending a decree for execution under Section 223 shall send therewith

(a) a copy

- (a) a copy of the decree ;
- (b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted ; and
- (c) a copy of any order for the execution of the decree, and if no such order has been made, a certificate to that effect.

225. The Court to which a decree is so sent shall cause such copies and certificate to be filed, without any further proof of the decree or order for execution, or of the copies thereof, or of the jurisdiction of the Court which passed it, unless the former Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

226. When such copies are so filed, the decree or order may, if the Court to which it is sent be the District Court, be executed by such Court or by any subordinate Court which it directs to execute the same.

227. If the Court to which the decree is sent for execution be a High Court, the decree shall be executed by such Court in the same manner as if it had been made by such Court in the exercise of its ordinary original civil jurisdiction.

228. The Court executing a decree sent to it under this chapter shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal, as if the decree had been passed by itself.

229. A decree of any Court established by the authority of the Governor-General in Council in the territories of any Native Prince or State in India, which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in manner herein provided within the jurisdiction of any Court in British India.

B.—Of Application for Execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the

the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

The Court may in its discretion refuse execution at the same time against the person and property of the judgment-debtor.

Where an application to execute a decree for the payment of money or delivery of other property has been made under this section and granted, no subsequent application to execute the same decree shall be granted unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree ; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction.

And no such subsequent application shall be granted after the expiration of twelve years from any of the following dates (namely)—

- (a) the date of the decree sought to be enforced, or of the decree (if any) on appeal affirming the same, or
- (b) where the decree or any subsequent order directs the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the Court from granting an application for execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has by fraud or force prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Notwithstanding anything herein contained, proceedings may be taken to enforce any decree within three years after the passing of this Code, unless when the period prescribed for taking such proceedings by the law in force immediately before the passing of this Code shall have expired before the completion of the said three years.

231. If a decree has been passed jointly in favor of more persons than one, any one or more of such persons, or his or their representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representative in interest of the deceased.

If the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

232. If

232. If a decree be transferred by assignment in writing or by operation of law from the decree-holder to any other person, the transferee may apply for its execution to the Court which passed it; and if that Court thinks fit, the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Provided that where the decree has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution:

Provided also that where a decree against several persons has been transferred to one of them, it shall not be executed against the others.

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may of its own motion, or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a decree shall be in writing, verified in manner hereinbefore provided for the verification of complaints, and shall contain in a tabular form the following particulars (namely)—

- (a) the number of the suit;
- (b) the names of the parties;
- (c) the date of the decree;
- (d) whether any appeal has been preferred from the decree;
- (e) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree;
- (f) whether any and what previous applications have been made for execution of the decree and with what result;
- (g) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;

(h) the

- (h) the amount of costs, if any, awarded;
- (i) the name of the person against whom the enforcement of the decree is sought; and
- (j) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

236. If the application be for the attachment of any moveable property belonging to the judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

237. If the application be for the attachment of any immoveable property belonging to the judgment-debtor, it shall contain at the foot a description of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Every such description and specification shall be verified in manner hereinbefore provided for the verification of complaints.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter, shall upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto;

and

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under Section 239, to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Power to require security from, or impose conditions upon, judgment-debtor.

241. No discharge under Section 239 of the property or person of a judgment-debtor, shall prevent it or him from being retaken in execution of the decree sent for execution.

Liability of judgment-debtor discharged to be retaken.

242. Any order of the Court by which the decree was passed or of such Court of appeal as aforesaid, in relation to the execution of such decree shall be binding upon the Court to which the decree was sent for execution.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

243. If a suit be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

Stay of execution pending suit between decree-holder and judgment-debtor.

D.—Questions for Court executing Decree.

Question to be decided by Court executing decree.

244. The following questions shall be determined by order of the Court executing a decree and not by separate suit (namely)—

- (a) questions regarding the amount of any mesne profits as to which the decree has directed inquiry ;
- (b) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree ;
- (c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution of the decree.

Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of

E.—Of the mode of executing Decrees.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether it contains the particulars mentioned in Section 235, or such of them as may be applicable to the case, and whether it is accompanied by the inventory mentioned in Section 236 ; and if such particulars or inventory are or is wanting, it shall reject the application or return it for amendment or for the addition of the inventory, as the case may be, or amend it then and there. Every amendment made under this section shall be attested by the signature of the Judge.

Procedure on receiving application for execution of decree.

When the application is admitted, the Court shall enter in the register of the suit a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application :

Procedure on admitting application.

Provided that, in the case of a decree for money, the value of the property attached shall as nearly as may be correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

Cross-decrees.

If the two sums be equal, satisfaction shall be entered upon both decrees.

Explanation I.—The decrees contemplated by this section are (a) decrees made by the same Court, (b) decrees sent to the same Court for execution, and (c) decrees of which one is made by the Court and the other is sent to the same Court for execution ; but not (d) decrees of which one is made by one Court and the other is made by another Court and not sent for execution to the former Court.

Explanation II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as by the assignee himself.

Explanation III.—This section does not apply unless

- (e) both decrees are capable of execution at the same time ;
- (f) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits ; and
- (g) the sums due under the decrees are definite.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

Cross-claims under same decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice to the party against whom execution is applied for, requiring him to show cause, within a period to be fixed by the Court, why the decree should not be executed against him,

Notice to show cause why decree should not be executed.

(a) if more than one year has elapsed between the date of the decree and the application for its execution, or

(b) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made:

Proviso.

Provided that no such notice shall be necessary

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed or of the last order against the party against whom execution is applied for passed on any previous application for execution, or

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person, the Court has ordered execution to issue against him.

Explanation.—In this section the phrase “the Court” means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

Procedure after issue of notice.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

Warrant when to issue.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

Date, signature, seal and delivery.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property.

Decree against representative of deceased for money to be paid out of deceased's property.

If no such property can be found, and the judgment-debtor fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally.

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant:

Decree against surety.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

254. Every decree or order directing a party to pay money, as compensation, or costs, or as the alternative to some other relief granted by the decree or order, or otherwise, may be enforced by the imprisonment of the judgment-debtor, or by the attachment and sale of his property in manner hereinafter provided, or by both.

Decree for money.

255. If

255. If the decree be for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for money.

256. When a decree is passed for a sum of money only, and the amount decreed does not exceed the sum of one thousand rupees, the Court may, when passing the decree, on the oral application of the decree-holder, 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, or against his moveable property within the same limits.

257. All money payable under a decree shall be paid as follows (namely)—

- (a) into the Court whose duty it is to execute the decree; or
- (b) out of Court to the decree-holder; or
- (c) otherwise as the Court which made the decree directs.

258. If the money is paid out of Court or the decree is otherwise adjusted to the satisfaction of the decree-holder, he shall certify the payment or adjustment to the Court whose duty it is to execute the decree; and no satisfaction of a decree in part or in whole by such payment or adjustment shall be recognized by such Court unless the payment or adjustment be certified as aforesaid. Where the decree-holder fails to certify as aforesaid, the judgment-debtor may apply to such Court for an order directing the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder, may make such order, and if the decree-holder disobeys the same, may refuse further to execute the decree.

259. If the decree be for any specific moveable, or for any share in a specific moveable, or for the recovery of a wife, it may be enforced by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the imprisonment of the judgment-debtor, or by attaching his property and keeping the same under attachment until the further order of the Court, or by both imprisonment and attachment, if necessary.

No attachment under this section shall remain in force for more than six months, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award

award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for the performance of any other particular act, has been made, has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree may be enforced by his imprisonment, or by the attachment of his property, or by both.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit and may pay the balance, if any, to the judgment-debtor on his application.

261. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver the same to the Court.

The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto shall be made within such time (mentioning it) as the Court fixes in this behalf.

The decree-holder may also tender a duplicate of the draft to the Court for execution upon the proper stamp-paper, if a stamp is required by law.

On proof of such service, the Court, or such officer as it appoints in this behalf, shall execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree, and execute the duplicate so altered:

Provided that if any party object to the draft so served as aforesaid, his objections shall, within the time so fixed, be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

262. The execution of a conveyance or the endorsement of a negotiable instrument by the Court under the last preceding section may be in the following form: "C.D., Judge of the Court of (or as the case may be), for A.B., in a suit by E.F., against A.B.," or in such other form as the High Court may from time to time

Form and effect of execution of conveyance by Court.

to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same.

263. If the decree be for the delivery of any immoveable property, possession thereof shall be delivered over to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

264. If the decree be for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property :

Provided that if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

265. If the decree be for the partition or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made by the Collector.

F.—Of Attachment of Property.

266. The following property is liable to attachment and sale in execution of a decree (namely), lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any railway, banking or other public Company or Corporation, and, except as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf :

Provided that the following particulars shall not be liable to such attachment or sale (namely)—

(a) the

- (a) the necessary wearing apparel of the judgment-debtor, his wife and children :
- (b) tools of artizans, implements of husbandry and such cattle as may in the opinion of the Court be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist :
- (c) the materials of houses and other buildings belonging to and occupied by agriculturists :
- (d) books of account :
- (e) mere rights to sue for damages :
- (f) any right of personal service :
- (g) stipends allowed to military and civil pensioners of Government, and political pensions :
- (h) one moiety of the salary of a public officer or of the servant of a Railway Company :
- (i) the pay and allowances of persons to whom the Native Articles of War apply :
- (j) the wages of laborers and domestic servants :
- (k) an expectancy of succession by survivorship or other merely contingent or possible right or interest :
- (l) a right to future maintenance.

Explanation.—The particulars mentioned in clauses (g), (h), (i) and (j) are exempt from attachment or sale whether before or after they are actually payable :
Provided also that nothing in this section shall be deemed

- (a) to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent, or
- (b) to affect the statute for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters.

267. The Court may of its own motion or on the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property, and before issuing the summons of its own motion, shall declare the person on whose behalf the summons is so issued.

268. In the case of (a) a debt not secured by a negotiable instrument, (b) a share in the capital of any public company or corporation, (c) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting,

(a) in

- (a) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court :
- (b) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon :
- (c) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be fixed up in some conspicuous part of the Court-house, and another copy of the same shall be sent in the case of the debt to the debtor, in the case of the share to the proper officer of the company or corporation, and in the case of the other moveable property (except as aforesaid) to the person in possession of the same.

A debtor prohibited under clause (a) of this section may pay the amount of his debt into Court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

No attachment under this section shall remain in force for more than six months; at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

269. If the property be moveable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to Section 266, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

The Local Government may from time to time make rules for the maintenance and custody, while under attachment, of live-stock and other moveable property, and the officer attaching property under this section shall, notwithstanding the provisions of the former part of this section, act in accordance with such rules.

Attachment of moveable property in possession of defendant.

Power to make rules for maintenance of attached live-stock.

270. If the property be a negotiable instrument not in deposit in a Court, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and held subject to the further orders of the Court.

271. If the person executing any process under this Code directing or authorizing seizure of moveable property, has gained access to a house or other building, he may unfasten and open the door of any room in which he has reason to believe any such property to be:

Provided that if the room be in the actual occupancy of a woman, who according to the customs of the country does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw; and after allowing a reasonable time for such woman to withdraw, and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

272. If the property be deposited in, or be in the custody of, any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon may be held subject to the further orders of the Court from which the notice issues:

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

273. If the property be a decree for money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

If the property be a decree for money passed by any other Court, the attachment shall be made by a notice in writing to such Court under the hand of the Judge of the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until

- (a) the Court which passed the decree sought to be executed cancels the notice, or

(b) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

On receiving such application, the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

In the case of all other decrees the attachment shall be made by a notice in writing, under the hand of the Judge of the Court which passed the decree sought to be executed to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, when such decree has been passed by any other Court, also by sending to such Court a like notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

The holder of any decree attached under this section shall be bound to give the Court executing the same such information and aid as may reasonably be required.

274. If the property be immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be fixed up in a conspicuous part of the property and of the Court-house.

When the property is land paying revenue to Government, a copy of the order shall also be fixed up in the office of the Collector of the District in which the land is situate.

275. If the amount decreed with costs and all charges and expenses resulting from the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made through the Court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the attachment.

276. When an attachment has been made by actual seizure or by written order duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, and any payment of the debt or dividend or a delivery of the share to the judgment-debtor during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

277. If

277. If the property attached is coin or currency-notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

278. If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

If the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

279. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

280. If upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property wholly or to such extent as it thinks fit, from attachment.

281. If the Court is satisfied that the property was, at the time it was attached, in possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

282. If the Court is satisfied that the property is subject to a mortgage or lien in favor of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or lien.

283. The

283. The party against whom an order under Section 280, 281 or 282 is passed may institute a suit to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive.

284. Any Court may order that any property which has been attached, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

285. Where property not in the custody of any Court has been attached in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

G.—Of Sale and Delivery of Property.

(a.)—General Rules.

286. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and, except as provided in Section 296, shall be made by public auction in manner hereinafter mentioned.

287. When any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Such proclamation shall state the time and place of sale; and shall specify as fairly and accurately as possible—

- (a) the property to be sold;
- (b) the revenue assessed upon the estate or part of the estate, when the property to be sold is an interest in an estate or a part of an estate paying revenue to Government;
- (c) any incumbrance to which the property is liable;
- (d) the amount for the recovery of which the sale is ordered; and
- (e) every other thing which the Court considers material for the purchaser to know in order to judge of the nature and value of the property.

For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary, and examine him in respect to any such

such matters, and require him to produce any document in his possession or power relating thereto.

The High Court shall, as soon as may be after this Code comes into force, make rules for the guidance of the Courts in exercise of their duties under this section. The High Court may from time to time alter any rules so made. All such rules shall be published in the local official Gazette and shall thereupon have the force of law. As regards his own Court and the Court of Small Causes at Rangoon the Recorder of Rangoon shall be deemed to be a 'High Court' within the meaning of this paragraph.

Nothing in this section shall apply to cases in which the execution of the decree has been transferred to the Collector.

288. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation under Section 287 unless the same has been committed or made dishonestly.

289. The proclamation shall be made, in manner prescribed by Section 274, on the spot where the property is attached.

If the Court so direct, such proclamation shall also be published in the local official Gazette and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

290. Except in the case of property mentioned in the proviso to Section 269, no sale under this chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification has been affixed in the Court-house of the Judge ordering the sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale, recording his reasons for such adjournment: Provided that when the sale is made in or within the precincts of the Court-house no such adjournment shall be made without the leave of the Court. Every such sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to such officer, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court that ordered the sale.

292. No officer having any duty to perform in connection with any sale under this chapter shall either directly or indirectly bid for, acquire, or attempt to acquire, any interest in any property sold at such sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the officer holding the sale,

and shall, at the instance of either the judgment-creditor or the judgment-debtor, be recoverable from the defaulter under the rules contained in this chapter for the execution of a decree for money.

294. No holder of a decree in execution of which property is sold, shall, without the express permission of the Court, bid for or purchase the property.

When a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, if he so desires, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

295. Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons:

Provided that, when any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale:

Provided also that when any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold.

If all or any of such assets be paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

Nothing in this section affects any right of the Government.

(b.)—*Rules as to Moveable Property.*

296. If the property to be sold be a negotiable instrument or a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker at the market-rate of the day.

297. In the case of other moveable property, the price of each lot shall be paid for at the time of sale, or as soon after as the officer holding the sale directs, and in default of payment, the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

298. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person be the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

299. When the property sold is a negotiable instrument or other moveable property of which actual seizure has been made, the property shall be delivered to the purchaser.

300. When the property sold is any moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

301. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public Company, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the Manager, Secretary or other proper officer of the Company from permitting any such transfer or making any such payment to any person except the purchaser.

302. If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public Company is standing, is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect:—"A.B. by C.D., Judge of the Court of (or as the case may be); in a suit by E.F. against A.B."

Until

Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made or document executed or receipt signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

303. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

Vesting order in case of other property.

(c.)—Rules as to Immoveable Property.

304. Sales of immoveable property in execution of a decree may be ordered by any Court other than a Court of Small Causes.

Sales of land by Court not inferior to a District Court.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may on his application postpone the sale of property comprised in the order for sale for such period as it thinks proper, to enable him to raise the amount.

Postponement of sale of land to enable defendant to raise amount of decree.

In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein, to make the proposed mortgage, lease or sale: provided that all moneys payable under such mortgage, lease or sale, shall be paid into Court and not to the judgment-debtor.

Certificate to judgment-debtor.

Where such certificate has been granted and so long as it remains in force, the provisions of Section 248 shall not apply.

306. On every sale of immoveable property under this chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and, in default of such deposit, the property shall forthwith be put up again and sold.

Deposit by purchaser of immoveable property.

307. The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

Time for payment in full.

308. In

308. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Procedure in default of payment.

309. Every re-sale of immoveable property in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Notification on re-sale of immoveable property.

310. When the property sold in execution of a decree is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the co-sharer.

Co-sharer of a share of undivided estate sold in execution to have preference in bidding.

311. The decree-holder or any person whose immoveable property has been sold under this chapter may apply to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting it; but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

Sale of land not set aside on ground of irregularity unless in case of substantial injury.

312. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale as regards the parties to the suit and the purchaser.

Effect of objection being disallowed and of its being allowed.

If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale.

No suit to set aside on the ground of such irregularity an order passed under this section shall be brought by the party against whom such order has been made.

313. The purchaser at any such sale may apply to the Court to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the Court may make such order as it thinks fit: provided that no order to set aside a sale shall be made, unless the judgment-debtor and the decree-holder have had opportunity of being heard against such order.

Power to apply to set aside the sale.

Confirmation of sale.

314. No sale of immoveable property shall become absolute until it has been confirmed by the Court.

315. When

If sale set aside, price to be returned to purchaser.

315. When a sale of immoveable property is set aside under Section 312 or 313,

or when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold and the purchaser is for that reason deprived of it,

the purchaser shall be entitled to receive back his purchase-money (with or without interest as the Court may direct) from any person to whom the purchase-money has been paid.

The repayment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the rules provided by this Code for the execution of a decree for money.

316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the name of the person who, at the time of sale, is declared to be the purchaser and the date of such sale.

Certificate to purchaser of immoveable property.

Certificate to state name of actual purchaser.

317. No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

Benámi purchaser not recognized.

Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

318. When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under Section 316, the Court shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

Delivery of immoveable property in occupancy of judgment-debtor.

319. When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under Section 316, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Delivery of immoveable property in the occupancy of tenant.

320. The

320. The Local Government may, with the sanction of the Governor-General in Council, declare by notification in the official Gazette that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decrees, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector; and rescind or modify any such declaration.

Power to prescribe rules for transferring to Collector execution of decrees for sale of land.

The Local Government may also from time to time prescribe rules for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court.

Power to prescribe rules as to transmission, execution and retransmission of decrees.

Power of Collector as to sale of land in execution of decree.

321. Whenever the execution of a decree has been so transferred, the Collector may—

- (a) sell the property comprised in the decree by public auction and either in one or more lots as he thinks fit:
- (b) fix a reasonable reserved price for each lot:
- (c) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment:
- (d) buy in the property offered for sale and re-sell the same.

322. Whenever the execution of a decree not being a decree directing the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector may either proceed as the Court would proceed under Section 305, or if he has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such property, the Collector may (notwithstanding any order under Section 303, but subject to such rules as may from time to time be made in this behalf by the Chief Controlling Revenue Authority) raise the amount necessary to discharge such debts with interest thereon according to the decree, or, if the decree makes no provision as to interest, then with interest (if any) at such rate as he thinks fit,

Powers of Collector as to execution of certain money-decrees so transferred.

- (a) by letting in perpetuity, or for a term, on payment of a premium equivalent to such amount, the whole or any part of the judgment-debtor's immoveable property: or
- (b) by

- (b) by mortgaging the whole or any part of such property: or
- (c) by selling part of such property: or
- (d) by letting on farm or managing by himself or another the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or
- (e) partly by one of such modes and partly by another or others of them.

For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

323. In the case of a decree for money, if the Collector proposes to proceed under Section 322, he shall publish a notice in the language of the district, calling upon all persons holding decrees against the judgment-debtor to notify the same in writing to the Collector within sixty days from the date of such publication.

Such notice shall be published by being posted in the court-house of the Court which made the order under Section 304, and at such other places (if any) as the Collector thinks fit.

So long as any letting or management under Section 322 continues, the judgment-debtor and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property so let or managed, or any part thereof.

324. If on the expiration or the letting or management, the amount necessary to discharge such debts in full with the interest (if any) payable thereon has not been raised, the Collector shall notify the fact in writing to the judgment-debtor or his representative, stating at the same time that, if the balance necessary to discharge such debts and interest is not paid to the Collector within six weeks of the date of such notice, the Collector will proceed to sell the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property accordingly.

325. Whenever the Collector sells any property pursuant to the said order of sale or exercises any of the powers conferred upon him by Section 321 or 322, he shall inform the Court which made such order of the fact of such sale or exercise, and shall render accounts to such Court of his receipts and payments in respect of the said property, and shall hold the balance at the disposal of such Court.

Such balance (after deducting therefrom any debts due or liabilities incurred to Government by the judgment-debtor) shall be applied rateably in discharging the claims of all the decree-holders who

who have complied with the said notice; and no other person making any claim against the property so let or managed, or against such proceeds, shall be entitled to be paid thereout.

326. When, in any local area in which no declaration under Section 320 is in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of Sections 322 to 325 (both inclusive) shall in such case apply to the Collector.

327. The Local Government may from time to time, with the sanction of the Governor-General in Council, make special rules for any local area imposing conditions in respect of sale of any class of interests in land in execution of decrees for money, where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

and if, when this Code comes into operation in any local area, any special rules as to sale of land in execution of decrees are in force therein, the Local Government may continue such rules in force, or may from time to time, with the sanction of the Governor-General in Council, modify the same.

All rules so made or continued, and all such modifications of the same, shall be published in the local official Gazette, and shall thereupon have the force of law.

H.—Of Resistance to Execution.

328. If in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, the Court shall inquire into the matter of the complaint, and pass such order as it thinks fit.

330. If

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct that the decree-holder be put into possession of the property.

331. If the resistance or obstruction has been occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant;

and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of the Specific Relief Act, 1877, Section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

332. If any person other than the defendant is dispossessed of any property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bona fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court.

If, after examining the applicant, it appears to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like power as if a suit for the property had been instituted by the applicant against the decree-holder under the provisions of the Specific Relief Act, 1877, Section 9,

Procedure when obstruction continues.

Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.

Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.

and shall pass such order as it thinks fit for executing or staying execution of the decree.

In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

Nothing in this section or Section 330 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.

333. The order passed under either of Sections 331 and 332 shall be in the nature of, and shall have the same force as, a decree in a suit, and shall be subject to the same conditions as to appeal or otherwise.

Orders passed under Sections 331 and 332 to have force of decrees, and to be subject to appeal.

334. If the purchaser of any immoveable property sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him, shall be applicable.

Resisting or obstructing purchasers in obtaining possession of immoveable property.

335. If it appear that the resistance or obstruction was occasioned by any person other than the judgment-debtor, not in possession of the property sold, but claiming a right thereto as proprietor, mortgagee, lessee, or under any other title, the Court, on the complaint of the purchaser, shall inquire into the matter of the resistance or obstruction, and pass such order thereon as it thinks fit.

Obstruction by claimant other than defendant.

The party against whom such order is passed may institute a suit to establish the right which he claims to the present possession of the property, but subject to the result of such suit, if any, the order shall be conclusive.

I.—Of Arrest and Imprisonment.

336. A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his imprisonment may be in the civil jail of the district in which the Court ordering the imprisonment is situate, or, when such jail does not afford suitable accommodation, in any other place which the Local Government may appoint for the confinement of persons ordered to be imprisoned by the Courts of such district:

Place of judgment-debtor's imprisonment.

Arrest in houses.

Provided that no house shall be entered after sunset and before sunrise for the purpose of making an arrest under this section:

Provided

Provided also that when the decree in execution of which a judgment-debtor is arrested is a decree for money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

Proviso.

The Local Government may, by notification published in the official Gazette, direct that whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under this section, the Court shall inform him that he may apply under Chapter XX to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application and if he places all his property in possession of a receiver appointed by the Court.

If after such publication the judgment-debtor express his intention so to apply, and if he furnish sufficient security that he will appear when called upon, and that he will within one month apply under Section 344 to be declared an insolvent, the Court shall release him from arrest :

But if he fails so to apply, the Court may either direct the security to be realised or commit him to jail in execution of the decree.

337. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

338. The Local Government may from time to time prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

339. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court.

When a judgment-debtor is committed to jail in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

The monthly allowance fixed by the Court shall be supplied by the party on whose application the decree has been executed, to the proper officer of the Court by monthly payments in advance before the first day of each month.

The first payment shall be made for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail.

340. Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs on the suit :

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

Release of judgment-debtor.

341. The judgment-debtor shall be discharged from jail, (a) on the decree being fully satisfied, or (b) at the request of the person on whose application he has been imprisoned, or (c) on such person omitting to pay the allowance as hereinbefore directed, or (d) if the judgment-debtor be declared an insolvent, as hereinafter provided, or

(e) when the term of his imprisonment as limited by Section 342 is fulfilled : Provided that in the first, second, third and fourth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court. A judgment-debtor discharged under this section is not thereby discharged from his debt, but he cannot be re-arrested under the decree in execution of which he was imprisoned.

Imprisonment not to exceed six months.

When not to exceed six weeks.

342. No person shall be imprisoned in execution of a decree for a longer period than six months ; or for a longer period than six weeks if the decree be for the payment of a sum of money not exceeding fifty rupees.

343. The officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed ; and if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay ; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court.

If the endorsement is to the effect that such officer is unable to execute the warrant, the Court shall examine him on oath touching his alleged inability, and may, if it think fit, summon and examine witnesses as to such inability and shall record the result.

CHAPTER XX.—OF INSOLVENT JUDGMENT-DEBTORS.

344. Any person arrested or imprisoned in execution of a decree for money may apply in writing to be declared an insolvent.

Such

Such application shall be made to the District Court which ordered his arrest or imprisonment, or when the District Court did not make such order, then to the District Court to which the Court that made the order is subordinate.

Contents of application. 345. The application shall set forth—

- (a) the fact of such person's arrest or imprisonment, the Court by whose order he was arrested or imprisoned, and the place in which he is in custody;
- (b) the amount, kind and particulars of his property, and the value of any such property not consisting of money;
- (c) the place or places in which such property is to be found;
- (d) his willingness to put it at the disposal of the Court;
- (e) the amount and particulars of all pecuniary claims against him; and
- (f) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

Subscription and verification of application. 346. The application shall be subscribed and verified by the applicant in manner hereinbefore prescribed for subscribing and verifying plaints.

Service on decree-holder of copy of application and notice. 347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in Court and served at the applicant's expense on the holder of the decree in execution of which he was arrested or imprisoned, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application.

The Court may, if it thinks fit, publish at the applicant's expense the application in such official Gazettes and public newspapers as it thinks fit.

Power to serve other creditors. 348. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

Powers of Court as to applicant under arrest. 349. Where the applicant is under arrest, the Court may, pending the hearing under Section 350, order him to be immediately committed to jail; or leave him in the custody of the officer to whom the service of the warrant was entrusted.

Procedure at hearing. 350. On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the applicant, in the presence of the persons on whom such notice has been served or their pleaders, as to his then circumstances and as to his future means of payment, and shall hear the said decree-holder, the other creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors, in opposition

opposition to the applicant's discharge; and may, if it thinks fit, grant time to the said decree-holder and other creditors or persons to adduce evidence showing that the applicant is not entitled to be declared an insolvent.

Declaration of insolvency and appointment of receiver.

351. If the Court is satisfied—

- (a) that the statements in the application are substantially true;
- (b) that the applicant has not, with intent to defraud his creditors, concealed, transferred or removed any part of his property since the institution of the suit in which was passed the decree in execution of which he was arrested or imprisoned or at any subsequent time;
- (c) that he has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts or given an unfair preference to any of his creditors by any payment or disposition of his property;
- (d) that he has not committed any other act of bad faith regarding the matter of the application,

the Court may declare him to be an insolvent, and may also, if it think fit, make an order appointing a receiver of his property, or if it does not appoint such receiver, may discharge the insolvent.

Creditors to prove their debts. 352. The creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and particulars of their respective pecuniary claims against him; and the Court shall by order determine the persons who have proved themselves to be the insolvent's creditors and their respective debts; and shall frame a schedule of such persons and debts; and the declaration under Section 351 shall be deemed to be a decree in favor of each of the said creditors for their said respective debts.

Schedule to be framed. A copy of every such schedule shall be stuck up in the court-house. Nothing in this section shall be deemed to entitle a partner in an insolvent firm or, when he has died before the insolvency, his legal representative, to prove in competition with the creditors of the firm.

Applications by creditors. 353. Any creditor of the insolvent who is not mentioned in such schedule may, within three months from its publication, apply to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and in case the applicant proves himself to be a creditor of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

Any creditor mentioned in the schedule may within three months from the publication of the schedule apply to the Court for an order altering the schedule

so far as regards the amount, nature, or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature, or particulars of the debt of another creditor.

In the case of any application under this section, the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors and hearing their objections, if any, may comply with or reject the application.

354. Every order under Section 351 shall be published in the local official Gazette and shall operate to vest in the Receiver all the insolvent's property (except the particulars specified in the first proviso to Section 266), whether set forth in his application or not.

355. The Receiver so appointed shall give such security as the Court may direct and shall possess himself of all such property, except as aforesaid;

and on his certifying that the insolvent has placed him in possession thereof, or has done everything in his power for that purpose, the Court may discharge the insolvent from arrest or imprisonment, as the case may be, upon such conditions (if any) as the Court thinks fit.

356. The Receiver shall proceed under the direction of the Court—

- (a) to convert the property into money:
- (b) to pay thereout debts, fines and penalties (if any) due by the insolvent to Government:
- (c) to pay the said decree-holder's costs:
- (d) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts, and without any preference;

and such Receiver may retain as a remuneration for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall deliver the surplus, if any, to the insolvent or his legal representative.

357. An insolvent discharged under Section 355 shall not be arrested or imprisoned on account of any of the scheduled debts. But (subject to the provisions of Section 358) his property, whether previously or subsequently acquired (except the particulars specified in the first proviso to Section 266 and except the property vested in the Receiver), shall, by

order of the Court, be liable to attachment and sale until the decrees against him held by the scheduled creditors are fully satisfied or become incapable of being executed.

358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.

When Court may declare insolvent absolved from further liability.

359. Whenever, at the hearing under Section 350, it is proved that the applicant has

- (a) been guilty, in his application, of any concealment or of wilfully making any false statement as to the debts due by him, or respecting the property belonging to him, whether in possession or in expectancy, or held for him in trust;
- (b) fraudulently concealed, transferred or removed any property; or
- (c) committed any other act of bad faith regarding the matter of the application,

the Court shall, at the instance of any of his creditors, sentence him to imprisonment for a term which may extend to one year from the date of committal.

Or the Court may, if it think fit, send him to the Magistrate to be dealt with according to law.

360. The Local Government may, by notification in the official Gazette, invest any Court other than a District Court with the powers conferred on District Courts by Sections 344 to 359 (both inclusive), and the District Judge may transfer to any Court situate in his district and so invested any case instituted under Section 344.

Any Court so invested may entertain any application under Section 344 by any person arrested in execution of a decree of such Court.

PART II.—OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.—OF THE DEATH, MARRIAGE, AND INSOLVENCY OF PARTIES.

No abatement by party's death, if cause of action survive.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.

Illustrations.

Illustrations.

(a) A covenants with B and C to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before the decree: the cause of action survives to C, and the suit does not abate.

(b) In the same case, all the parties die before decree. The cause of action survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(c) A sues B for libel. A dies. The cause of action does not survive and the suit abates.

(d) A, a member of a Hindú joint family under the Mitákshará law, institutes a suit for partition of the family property. A dies leaving B, a minor son, his heir. The cause of action survives to B, and the suit does not abate.

362. If there be more plaintiffs or defendants than one, and any of them dies, and if the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

363. If there be more plaintiffs than one, and any of them dies, and if the cause of action does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of such legal representative, enter his name on the record in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative.

364. If no application be made to the Court by any person claiming to be the legal representative of a deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs;

and the legal representative (if any) of the deceased plaintiff shall be made a party and shall be interested in and bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

365. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, where the cause of action survives, on the application of the legal representative of the deceased, enter his name in the place of such plaintiff on the record, and the suit shall thereupon proceed.

366. If no such application be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may pass an order that the suit shall abate, and award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff;

or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

367. If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

368. If there be more defendants than one, and any of them die before decree and the cause of action does not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit:

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

369. The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and where the decree is against a female defendant, it may thereupon be executed against her alone.

If

If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

370. The bankruptcy or insolvency of a plaintiff in any suit which his assignee or the receiver appointed under Section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or receiver declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

If the assignee or receiver neglect or refuse to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

But the person claiming to be the legal representative of the deceased bankrupt or insolvent plaintiff, may apply for an order to set aside the order for abatement or dismissal; and if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

372. In other cases of assignment, creation or devolution of any interest pending the suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

CHAPTER XXII.—OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the suit, the Court is satisfied on the application of the plaintiff (a) that the suit must fail by reason of some formal defect, or (b) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon

When plaintiff's bankruptcy or insolvency bars suit.

Procedure when assignee fails to continue suit or give security.

Effect of abatement on parties' rights.

Application to set aside abatement or dismissal.

Procedure in case of assignment pending the suit.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or for the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been brought.

Limitation-law not affected by first suit.

375. If a suit be adjusted by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final.

Compromise of suits.

CHAPTER XXIII.—OF PAYMENT INTO COURT.

Deposit by defendant of amount in satisfaction of claim.

376. The defendant in any suit to recover a debt or damages, may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

377. Notice of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

Notice of deposit.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Interest on sum deposited not allowed to plaintiff after receipt of notice.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

Procedure where plaintiff accepts deposit as satisfaction in part.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(a) A owes B Rupees 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(b) B sues A under the circumstances mentioned in illustration (a). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(c) A owes B Rupees 100 and is willing to pay him that sum without suit. B claims Rupees 150 and sues A for that amount. On the plaint being filed, A pays Rupees 100 into Court and disputes only his liability to pay the remaining Rupees 50. B accepts the Rupees 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.—OF REQUIRING SECURITY FOR COSTS.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of Section 373.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India, within the meaning of Section 380.

CHAPTER XXV.—OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of persons resident within the local limits of its jurisdiction, who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

Cases in which Court may issue commission to examine witness.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit, of any party to the suit or of the witness to be examined.

Order for commission may be made either on application of parties or by Court of its own accord.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same, may be issued to any person whom the Court thinks fit to execute the same.

When witness resides within Court's jurisdiction.

386. Any Court may in any suit issue a commission for the examination of—

- (a) any person resident beyond the local limits of its jurisdiction;
- (b) persons who are about to leave such limits before the date on which they are required to be examined in Court; and
- (c) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission shall ordinarily be issued to any Court not being a High Court, within the local limits of whose jurisdiction such person resides, and which can most conveniently execute the same:

Provided that if he resides beyond the local limits of the jurisdiction of the Court issuing the commission and within the towns of Calcutta, Madras, Bombay or Rangoon, the commission shall be issued to the Court of Small Causes within whose jurisdiction he resides:

When witness is within local limits of ordinary original civil jurisdiction of a High Court.

Provided also that, under special circumstances, the commission may be directed to any person whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

When witness is not within British India.

Court to examine witness pursuant to commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

Commission when executed to be returned to Court issuing it with depositions of witnesses.
389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

When depositions may be read in evidence.
390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

- (a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or
- (b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Provisions as to execution and return of commissions to apply to commissions issued by foreign Courts.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by

- (a) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor-General in Council, or
- (b) Courts situate in any part of the British Empire other than British India, or
- (c) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for Local Investigations.

Commission to make local investigations.
392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

Procedure of Commissioner.
393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the Court.

Report and depositions to be evidence in suit.
The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or any of the parties to the suit may, with the permission of the Court, examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

C.—Commissions to examine Accounts.

Commission to examine or adjust accounts.
394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

Court to give Commissioner necessary instructions.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

Proceedings of Commissioner receivable in evidence. Power to make further inquiry.
The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

D.—Commission to make Partition.

Commission to make partition of non-revenue paying immoveable property.
396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court: and the Court, after hearing any objections which the parties may make to the report or reports, shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

397. Before issuing any commission under this chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be paid into Court by the party at whose instance or for whose benefit the commission is issued.

398. Any Commissioner appointed under this chapter may, unless otherwise directed by the order of appointment,

- (a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him:
- (b) call for and examine documents and other things relevant to the subject of inquiry:
- (c) at any reasonable time enter upon or into any land or building mentioned in the order.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

400. Whenever

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear, the Commissioner may proceed *ex parte*.

PART III.—OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.—SUITS BY PAUPERS.

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by Section 50 in regard to plaints in suits: a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

404. Notwithstanding anything contained in Section 86, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under Section 640 or 641, in which case the application may be presented by a duly authorized agent, who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

405. If the application be not framed or presented in the manner prescribed by Sections 403 and 404, the Court shall reject it.

406. If

406. If the application be in proper form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

Rejection of application. 407. If it appear to the Court upon such examination

- (a) that the applicant is not a pauper, or
 - (b) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or
 - (c) that his allegations do not show a right to sue in such Court, or
 - (d) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,
- the Court shall reject the application.

408. If upon such examination the Court sees no reason to refuse the application on any of the grounds stated in Section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing any evidence which may be adduced in disproof thereof.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in Section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable

payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

412. If the plaintiff fails in the suit, or if he is dispaupered, the Court shall order the plaintiff, or any person made under Section 32 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and, if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

413. Refusal to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

- (a) if he is guilty of vexatious or improper conduct in the course of the suit;
- (b) if it appears that his means are such that he ought not to continue to sue as a pauper, or
- (c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

CHAPTER XXVII.—SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

417. Persons

417. Persons being *ex-officio* or otherwise authorized to act for Government in respect of any judicial proceeding, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

419. The Government Pleader in any Court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such Court.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

421. The Court may also in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the Court that the summons may be most conveniently so served.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel;

and the Court upon such application may extend the time for so long as appears to be requisite.

424. No suit shall be instituted against the said Secretary of State in Council or against a public officer until the expiration of two months next after notice in writing has been in the case of the Secretary of State in Council delivered to, or left at the office of,

of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

426. If the Government undertake the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

428. In a suit against a public officer the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

429. When the decree is against the said Secretary of State in Council or against a public officer, a time shall be specified in the decree within which it shall be satisfied; and if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.—SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. Alien enemies residing in British India with the permission of the Governor-General in Council and alien friends may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

When a foreign State may sue.

431. A foreign State may sue in the Courts of British India, provided that—

- (a) it has been recognized by Her Majesty or the Governor-General in Council, and
- (b) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor-General in Council.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court; Such consent shall not be given unless—

- (a) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him, or
- (b) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or
- (c) the subject-matter of the suit is immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

Sovereign Princes, &c., exempt from arrest.

When their property may be attached.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

434. The

Execution in British India of decrees of Courts of Native States.

434. The Governor-General in Council may from time to time, by notification in the *Gazette of India*,

- (a) declare that the decrees of any Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor-General in Council, may be executed in British India as if they had been made by the Courts of British India, and
- (b) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.—SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any director, secretary, or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served

- (a) by leaving it at the registered office (if any) of the Corporation or Company, or
- (b) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or
- (c) by giving it to any director, secretary or other principal officer of the Corporation or Company,

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.—SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. In all suits concerning property vested in a trustee, executor or administrator, the trustee, executor or administrator shall represent the persons beneficially interested in such property; and it shall not ordinarily be necessary to make such persons parties.

Representation of beneficiaries in suits concerning property vested in trustees, &c.

parties to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Joinder of executors and administrators.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them :

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

Husband of married executrix not to join.

439. Unless the Court directs otherwise, the husband of a married administratrix or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.—SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

Minor must sue by next friend.

Costs.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

Applications to be made by next friend or guardian *ad litem*.

441. Every application to the Court on behalf of a minor (other than an application under Section 451) shall be made by his next friend, or his guardian for the suit.

442. If a plaint be filed by or on behalf of a minor, without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objection, if any, may make such order in the matter as it thinks fit.

Costs.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, Section 3.

Order obtained without next friend or guardian may be discharged.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and.

and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

Costs.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

Who may be next friend.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

Removal of next friend.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

Retirement of next friend.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

Application for appointment of new next friend.

Stay of proceedings on death or removal of next friend.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

Application for appointment of new next friend.

Course to be followed by minor plaintiff or applicant on coming of age.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

Where he elects to proceed.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus :

"A. B., late a minor by C. D., his next friend, but now of full age."

452. If

Where he elects to abandon.

to dismiss the suit

Costs.

Making and proving applications under Sections 451, 452.

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

453. Any application under Section 451 or Section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff on coming of age, and desiring to repudiate the suit, must apply to have his name struck out as co-plaintiff; and the Court, if it find that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application and of all or any proceedings theretofore had in the suit shall be paid by such persons as the Court directs.

If the late minor be a necessary party to the suit, the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor but neither a plaintiff, nor a married woman, can be so appointed.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Guardian neglecting his duty may be removed.

Costs.

On death of guardian, *pendente lite*, new guardian to be appointed.

459. If the guardian for the suit dies pending such suit or is removed by the Court, the Court shall appoint a new guardian in his place.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

When decree to be enforced against heir or representative.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit at any time on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for, to, and held for the benefit of, such minor.

Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Compromise without leave voidable.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

463. The provisions contained in Sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

Application of Sections 440 to 462 to persons of unsound mind.

464. Nothing in Sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil

Wards of Court.

Court under any local law.

CHAPTER XXXII.—SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of

- (a) his commanding officer or of the next subordinate officer, if the party be himself the commanding officer, or
- (b) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority which shall be filed in Court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression ‘commanding officer’ means the officer in actual command for the time being of any regiment, corps, detachment or dépôt, to which the officer or soldier belongs.

466. Any person authorized by an officer or soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

467. Processes served upon any person authorized by an officer or soldier, as in Section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest is to be executed within the limits of a cantonment, garrison, military station or military bazar, the officer charged with the execution of such warrant shall deliver the same to the commanding officer.

The commanding officer shall back the warrant with his signature, and if the person named therein is within the limits of his command shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.—INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaintiff must, in addition to the other statements necessary for complaints, state—

- (a) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder;
- (b) the claims made by the defendants severally; and
- (c) that there is no collusion between the plaintiff and any of the defendants.

472. When the thing claimed is capable of being paid into Court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

473. At the first hearing the Court may

- (a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit;

or, if it thinks that justice or convenience so require,

- (b) retain all parties until the final disposal of the suit;
- and, if it finds that the admissions of the parties or other evidence enable it,

- (c) adjudicate the title to the thing claimed; or else it may
- (d) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court.

474. Nothing in this chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

When agents and tenants may institute interpleader-suits.

Illustrations.

(a) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(b) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

Charge of plaintiff's costs.

476. If any of the defendants in an interpleader-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has been passed, stay the proceedings as against him; and his costs in the suit so stayed may be provided for in such suit; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Procedure where a defendant is suing stakeholder.

Costs.

PART IV.—PROVISIONAL REMEDIES.

CHAPTER XXXIV.—OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

When plaintiff may apply that security be taken.

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit—

that

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

- (a) has absconded or left the jurisdiction of the Court, or
- (b) is about to abscond or to leave the jurisdiction of the Court, or
- (c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied

Order to bring up defendant to show cause why he should not give security.

that the defendant, with any such intent as aforesaid,

- (a) has absconded or left the jurisdiction of the Court, or
- (b) is about to abscond or to leave the jurisdiction of the Court, or
- (c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue an order for bringing the defendant before the Court to show cause why he should not give security for his appearance.

479. If the defendant fail to show such cause, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

If defendant fail to show cause, Court may order him to make deposit or give security.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

480. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

Procedure in case of application by surety to be discharged.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

481. If the defendant fail to comply with any order under Section 479 or Section 480, the Court may commit him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees.

482. The provisions of Section 339 as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

483. If at any stage of any suit the plaintiff satisfies the Court by affidavit that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(a) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(b) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit, and, on his failing to give such security, to direct that any portion of his property shall be attached until the further order of the Court.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

484. If the Court, after examining the applicant, and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said

Procedure where defendant fails to give security or find fresh security.

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

Contents of application.

Court may call on defendant to furnish security or show cause.

said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

485. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

487. If any claim be preferred to the property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

488. When an order of attachment before judgment is passed, the Court which passed the order shall remove the attachment whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

Compensation for obtaining arrest or attachment on insufficient grounds.

491. If in any suit in which an arrest or attachment has been effected, it appear to the Court that such arrest or attachment was applied for on insufficient grounds,

Attachment if cause not shown or security not furnished.

Withdrawal of attachment.

Mode of making attachment.

Investigation of claims to property attached before judgment.

Removal of attachment when security furnished.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

Property attached under this chapter, not to be re-attached in execution of decree.

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment :

Provided that the Court shall not award under this section a larger amount than

Proviso. it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXV.—OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

Cases in which temporary injunction may be granted.

492. If in any suit it be proved by affidavit or otherwise

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or is about to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or give such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in

Injunction to restrain repetition or continuance of breach.

the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or Section 492

may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit and may pay the balance, if any, to the defendant.

494. The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

Before granting injunction, Court may direct notice to be given to opposite party.

495. An injunction directed to a corporation or public company is binding not only on the corporation or company itself, but also on all members and officers of the corporation or company whose personal action it seeks to restrain.

Injunction to corporation binding on its members and officers.

Order for injunction may be discharged, varied or set aside.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Compensation to defendant for issue of injunction on insufficient grounds.

497. If it appears to the Court that the injunction was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction :

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property being the subject of such suit, which is subject to speedy and natural decay.

Power to order interim sale of perishable articles.

Power to make order for detention, &c., of subject-matter, and to authorize entry, taking of samples and experiments.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

- (a) make an order for the detention, preservation or inspection of any property being the subject of such suit;
- (b) for all or any of the purposes aforesaid, authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and
- (c) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

500. An application by the plaintiff for an order under Section 498 or Section 499 may be made after notice in writing to the defendant at any time after service of the summons.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure;

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

CHAPTER XXXVI.—APPOINTMENT OF RECEIVERS.

503. Whenever it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may by order

Power of Court to appoint receivers.

- (a) appoint a receiver of such property, and, if need be,
- (b) remove the person in whose possession or custody the property may be from the possession or custody thereof;
- (c) commit the same to the custody or management of such receiver; and
- (d) grant to such receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities.

- Every receiver so appointed shall
- (e) give such security (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property,
- (f) pass his accounts at such periods and in such form as the Court directs,
- (g) pay the balance due from him thereon as the Court directs, and
- (h) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

504. If the property be land paying revenue to Government, or land of which the revenue has been assigned or redeemed, and the Court considers that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver of such property.

When Collector may be appointed receiver.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts. Provided that whenever the Judge of a Court subordinate to a District Court considers it expedient that a receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment, and submit such person's name, with the grounds for the nomination, to the District Court, and the District

Courts empowered under this chapter.

District Court shall authorize such Judge to appoint the person so nominated or pass such other order as it thinks fit.

PART V.—OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.—REFERENCE TO ARBITRATION.

506. If all the parties to a suit desire that any matter in difference between them in the suit be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Every such application shall be in writing and shall state the particular matter sought to be referred.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration and the parties desire that the nomination shall be made by the Court, the Court shall nominate the arbitrator.

508. The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award, and specify such time in the order.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except as hereinafter provided.

509. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators,

- (a) by the appointment of an umpire, or
- (b) by declaring that the decision shall be with the majority if the major part of the arbitrators agree, or
- (c) by empowering the arbitrators to appoint an umpire, or
- (d) otherwise, as may be agreed between the parties; or, if they cannot agree, as the Court determines.

If an umpire is appointed, the Court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

510. If

510. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects, or becomes incapable to act, or leaves British India under circumstances showing that he will probably not return at an early date, the Court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving British India, or make an order superseding the arbitration, and in such case shall proceed with the suit.

511. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice has been served, or such further time as the Court may in each case allow, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

512. Every arbitrator or umpire appointed under Section 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

513. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire to examine, as the Court may issue in suits tried before it,

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

514. If from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the Court may, if it think fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the suit.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators,

- (a) if they have allowed the appointed time to expire without making an award, or
- (b) when they have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree.

516. When

516. When an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

517. Upon any reference by an order of Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

518. The Court may, by order, modify or correct an award,

- (a) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or
- (b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,

- (a) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;
- (b) where the award is so indefinite as to be incapable of execution;
- (c) where an objection to the legality of the award is apparent upon the face of it.

521. An award remitted under Section 520 becomes void on the refusal of the arbitrators or umpire to reconsider it. But no award shall be set aside except on one of the following grounds (namely)—

- (a) corruption or misconduct of the arbitrator or umpire;
- (b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;
- (c) the award having been made after the issue of an order by the Court superseding the arbitration and restoring the suit;

and

and no award shall be valid unless made within the period allowed by the Court.

522. If the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if the Court has refused such application,

the Court shall, after the time for making such application has expired, proceed to give judgment according to the award,

or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case:

Upon the judgment so given a decree shall follow, and shall be enforced in manner provided in this Code for the execution of decrees. No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

523. When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in Court.

The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

On such application being made, the Court shall direct notice thereof to be given to any of the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

If no sufficient cause be shown, the Court may cause the agreement to be filed and shall make an order of reference thereon, and may also nominate the arbitrator when he is not named therein and the parties cannot agree as to the nomination.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to a proceedings under an order of reference made by the Court under Section 523, and to the award of arbitration and the enforcement of the decree founded thereupon.

525. Wh

525. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may apply to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in Court.

The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

526. If no ground such as is mentioned or referred to in Section 520 or 521 be shown against the award, the Court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

CHAPTER XXXVIII.—OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,

- (a) a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or
- (b) some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or
- (c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby.

528. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

529. The

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

530. When the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

531. The case shall be set down for hearing as a suit instituted under Chapter V, the provisions of which shall apply to such suit so far as the same are applicable.

If the Court is satisfied, after an examination of the parties, or taking such evidence as it thinks fit,

- (a) that the agreement was duly executed by them, and
- (b) that they have a *bonâ fide* interest in the question stated therein, and
- (c) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon, in the same way as in an ordinary suit, and upon the judgment so given a decree shall follow, and shall be enforced in the manner provided in this Code for the execution of decrees.

CHAPTER XXXIX.—OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. In any Court to which this section applies all suits upon bills of exchange, hundís or promissory notes may, in case the plaintiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Code; but the summons shall be in the form contained in the fourth schedule hereto annexed, No. 172, or in such other form as the High Court may from time to time prescribe.

In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter mentioned so to appear and defend; and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding

exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

The defendant shall not be required to pay into Court the sum mentioned in the summons, or to give security therefor, unless the Court thinks his defence not to be *prima facie* sustainable, or feels reasonable doubt as to its good faith.

Explanation.—This section is not confined to cases in which the bill, hundí or note sued upon, together with mere lapse of time, is sufficient to establish a *prima facie* right to recover.

533. The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

534. After decree, the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it seem reasonable to the Court so to do, and on such terms as the Court thinks fit.

535. In any proceeding under this chapter the Court may order the bill, hundí or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

536. The holder of every dishonored bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonor, as he has under this chapter for the recovery of the amount of such bill or note.

537. Except as provided by Sections 532 to 536 both inclusive, the procedure in suits under this chapter shall be the same as the procedure in suits instituted under Chapter V.

538. Sections

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only

to—

- (a) the High Courts of Judicature at Fort William, Madras and Bombay;
- (b) the Court of the Recorder of Rangoon;
- (c) the Courts of Small Causes in Calcutta, Madras and Bombay;
- (d) the Court of the Judge of Karachi; and
- (e) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the official Gazette, apply them.

In case of such application the Local Government may direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provisions shall apply accordingly, and the rules so made shall have the force of law.

The Local Government may from time to time alter or cancel any such notification.

CHAPTER XL.—OF SUITS RELATING TO PUBLIC CHARITIES.

539. In case of any alleged breach of any express or constructive trust created for public charitable purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General acting *ex-officio*, or two or more persons having a direct interest in the trust and having obtained the consent in writing of the Advocate-General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

- (a) appointing new trustees of the charity;
 - (b) vesting any property in the trustees of the charity;
 - (c) declaring the proportions in which its objects are entitled;
 - (d) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged;
 - (e) settling a scheme for its management;
- or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate-General may (where there is no Advocate-General) be exercised by the Government Advocate or (where there is no Government Advocate) by such officer as the Local Government may appoint in this behalf.

PART VI.—OF APPEALS.

CHAPTER XLI.—OF APPEALS FROM ORIGINAL DECREES.

540. Unless when otherwise expressly provided in this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

Appeal to lie from all original decrees, except when expressly prohibited.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.

Form of appeal.

Memorandum to be accompanied by copy of decree and judgment.

Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

Memorandum of appeal.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Appellant confined to grounds set out.

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court, or be amended then and there.

Rejection of memorandum or grounds of objection.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and the Appellate Court may

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

reverse or modify the decree in favor of all the plaintiffs or defendants as the case may be.

Of staying and executing Decrees under Appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the Appellate Court may for sufficient cause order the execution to be stayed:

Execution of decree not stayed solely by reason of appeal.

If an application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed:

Stay of execution of appealable decree before time for appealing has expired.

Provided that no order shall be made under this section unless the Court making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made;

(b) that the application has been made without unreasonable delay; and

(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

Security required before making order to stay execution.

546. If an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court, or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

Security in case of order for execution of decree appealed against.

And when an order has been passed for the sale of immoveable property in execution of a decree for money and an appeal is pending against such decree, the sale shall on the application of the judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in Sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Registry of memorandum of appeal.

Register of appeals.

Such book shall be called the Register of Appeals.

549. The Appellate Court may, at its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both:

Appellate Court may require appellant to give security for costs.

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

Appellate Court to give notice to Court whose decree is appealed against.

550. When the memorandum of appeal is registered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Transmission of papers to Appellate Court.

Either party may apply in writing to the Court against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

Copies of exhibits in Court whose decree is appealed against.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

Power to confirm decision of lower Court without sending it notice.

552. The Appellate Court, unless where it confirms, under Section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Day for hearing appeal.

Such

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck up in the Appellate Court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in Chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Publication and service of notice of day for hearing appeal.

Instead of sending the notice to the Court against whose decree the appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

Appellate Court may itself cause notice to be served.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Contents of notice.

Procedure on Hearing.

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the party having the right to begin shall be heard in support of or against the appeal, as the case may be. The other party shall then be heard, and the party having the right to begin shall then be entitled to reply.

Right to begin.

Explanation.—If the appeal is from the whole decree, or if there are cross-appeals, the party having the right to begin is the party who had the right to begin on the hearing in the Court whose decree is appealed from.

If the appeal is from only a portion of the decree, and there is no cross-appeal, the appellant has the right to begin.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

Dismissal of appeal for appellant's default.

Hearing appeal *ex parte*.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

557. If

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed :

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

Proviso.

558. If an appeal be dismissed under Section 556 or Section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-admission of appeal dismissed for default.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if it be proved that the respondent was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-hearing on application of respondent against whom *ex parte* decree is made.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has given to the appellant or his pleader seven days' notice of such objection.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

Such objection shall be in the form of a memorandum, and the provisions of Section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

Form of notice, and provisions applicable thereto.

562. If

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

Remand of case by Appellate Court.

The Appellate Court may, if it think fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

When further evidence barred.

564. The Appellate Court shall not remand a case for a second decision, except as provided in Section 562.

Limit to remand.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after resettling the issues, if necessary, finally determine the case notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

When evidence on record sufficient, Appellate Court shall determine case finally.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

and such Court shall proceed to try such issue, and shall return to the Appellate Court its finding thereon together with the evidence.

Finding and evidence to be put on record.

Objections to finding.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to the finding.

After the expiration of the period fixed for presenting such memorandum,
Determination of appeal. the Appellate Court shall proceed to determine the appeal.

568. The parties to an appeal shall not be entitled to produce additional
Production of additional evidence in Appellate Court. evidence, whether oral or documentary, in the Appellate Court. But if

- (a) The Court against whose decree the appeal is made refused to admit evidence which ought to have been admitted, or,
- (b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

569. Whenever additional evidence is allowed to be received, the Appellate
Mode of taking additional evidence. Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

570. In all cases where additional evidence is directed or allowed to be taken,
Points to be defined and recorded. the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

571. The Appellate Court, after hearing the parties or their pleaders and
Judgment when and where pronounced. referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

572. The judgment shall be written in English; provided that if English is
Language of judgment. not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

573. When

573. When the language in which the judgment is written is not the language
Translation of judgment. of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be correct, shall be signed by the Judge or such officer as he appoints in this behalf.

Contents of judgment. 574. The judgment of the Appellate Court shall state—

- (a) the points for determination;
- (b) the decision thereupon;
- (c) the reasons for the decision; and
- (d) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

Date and signature. and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

575. When the appeal is heard by a Bench of two or
Decision when appeal is heard by two or more Judges. more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the
Dissent to be recorded. decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

577. The judgment may be for confirming, varying or reversing the decree
What judgment may direct. of the Court against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

578. No

578. No decree shall be reversed or substantially varied, nor shall any case be remanded in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

Of the Decree in Appeal.

579. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it :

Provided that where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

Judge dissenting from judgment need not sign decree.

Copies of judgment and decree to be furnished to parties.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

Certified copy of decree to be sent to Court whose decree is appealed against.

Appellate Court to have same powers as Courts of original jurisdiction.

582. The Appellate Court shall have the same powers in appeals under this chapter as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under Chapter V.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court

Execution of decree of Appellate Court.

Court which passed the decree against which the appeal was preferred ; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in suits.

CHAPTER XLII.—OF APPEALS FROM APPELLATE DECREES.

584. Unless when otherwise provided in this Code or by any other law, from all decrees passed in appeal by any Court subordinate to a High Court, an appeal shall lie to the High Court on any of the following grounds (namely)—

- (a) the decision being contrary to some specified law or usage having the force of law ;
- (b) the decision having failed to determine some material issue of law or usage having the force of law ;
- (c) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may have produced error or defect in the decision of the case upon the merits.

Second appeal only on grounds mentioned in Section 584.

585. No second appeal shall lie except on the grounds mentioned in Section 584.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

No second appeal in certain suits.

587. The provisions contained in Chapter XLI shall apply as far as may be to appeals under this chapter, and to the execution of decrees passed in such appeals.

Provisions as to second appeals.

CHAPTER XLIII.—OF APPEALS FROM ORDERS.

588. An appeal shall lie from the following orders under this Code and from no other such orders :—

- (a) orders under Section 20, staying proceedings in a suit,
- (b) orders under Section 32, striking out or adding the name of any person as plaintiff or defendant,
- (c) orders under Section 44, adding a cause of action,
- (d) orders under Section 47, excluding a cause of action,
- (e) orders rejecting or returning plaints under Section 53, clause (d), or Section 54, clauses (b) and (d), or Section 57, clauses (b) and (c),
- (f) orders

- (f) orders rejecting applications under Section 102 (in cases open to appeal) for an order to set aside the dismissal of a suit,
- (g) orders under Section 120 where a party fails to appear in person,
- (h) orders under Section 168 for attachment of property,
- (i) orders under Section 176 where a party refuses to give evidence or produce a document called for by the Court,
- (j) orders under Section 244, as to questions relating to the execution of decrees, of the same nature with appealable orders made in the course of a suit,
- (k) orders under Section 258 compelling decree-holders to certify,
- (l) orders under Section 261 as to objections to draft-conveyances or draft-endorsements,
- (m) orders under Section 312 for confirming or setting aside a sale,
- (n) orders in insolvency matters under Section 351, 352, 353 or 357,
- (o) orders rejecting applications under Section 370 for dismissal of the suit,
- (p) orders disallowing objections under Section 372,
- (q) orders as to interpleader-suits under Section 473, 475 or 476,
- (r) orders under Section 479, 480, 481, 485, 492, 493, 496, 503,
- (s) orders under Section 514 superseding an arbitration,
- (t) orders under Section 518 modifying an award,
- (u) orders under any of the provisions of this Code, imposing fines, or for the imprisonment of any person, except when such imprisonment is in execution of a decree,
- (v) refusals under Section 558 to re-admit, or under Section 560 to re-hear, an appeal,
- (w) orders under Section 562 remanding a case.

The orders passed in appeals under this section shall be final.

Court which shall hear appeals.

589. An appeal from any order specified in Section 588, clause (n), shall lie to the High Court.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in relation to which such order was made or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

590. The Procedure prescribed in Chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided.

591. Except

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court on the exercise of its original or appellate jurisdiction; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

CHAPTER XLIV.—OF PAUPER APPEALS.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in Chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable:

Provided that the Court shall reject the application unless upon a perusal thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

Procedure on application for admission of appeal.

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court:

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further inquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such inquiry.

Proviso.

CHAPTER XLV.—OF APPEALS TO THE QUEEN IN COUNCIL.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

'Decree' defined.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained—
an appeal shall lie to Her Majesty in Council

When appeals lie to Queen in Council.

(a) from

- (a) from any final decree passed on appeal by a High Court or other Court of final appellate jurisdiction,
- (b) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and
- (c) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

Value of subject-matter.

596. In each of the cases mentioned in clauses (a) and (b) of Section 595,

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

Bar of certain appeals.

597. Notwithstanding anything contained in Section 595, no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being;

and no appeal shall lie to Her Majesty in Council from any decree which, under Section 586, is final.

Application to Court whose decree is complained of.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

Time within which application must be made.

599. Such application must ordinarily be made within six months from the date of such decree.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under Section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of Section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

Effect of refusal of certificate.

601. If such certificate be refused, the petition shall be dismissed:

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

Security and deposit required on grant of certificate.

- (a) give security for the costs of the respondent, and
- (b) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except
 - (1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being;
 - (2) papers which the parties agree to exclude;
 - (3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and
 - (4) such other documents as the High Court may direct to be excluded:

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

Admission of appeal and procedure thereon.

603. When such security has been completed and deposit made to the satisfaction of the Court, Court may

- (a) declare the appeal admitted, and
- (b) give notice thereof to the respondent, and shall then
- (c) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and
- (d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

Revocation of acceptance of security.

605. If

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid, the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under Section 602.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

But the Court may, if it think fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court—

- (a) impound any moveable property in dispute or any part thereof, or
- (b) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or
- (c) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or
- (d) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal as it thinks fit.

609. If at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any monies expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

- (a) the service of notices under Section 600,
- (b) the grant or refusal of certificates under Sections 601 and 602 by Courts of final appellate jurisdiction subordinate to the High Court,
- (c) the

- (c) the amount and nature of the security required under Sections 602, 605 and 609,
- (d) the testing of such security,
- (e) the estimate of the cost of transcribing the record,
- (f) the preparation, examination and certifying of such transcript,
- (g) the revision and authentication of translations,
- (h) the preparation of indices to transcripts of records, and of lists of the papers not included therein,
- (i) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

Publication of rules.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Legalization of existing rules.

614. In Sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

Recorder of Rangoon.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, Section IV, clause *fifth*, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

Construction of Bengal Regulation III of 1828, Section 4, clause 5.

Saving of Her Majesty's pleasure.

616. Nothing herein contained shall be understood—
- (a) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or
 - (b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for, the presentation of appeals to Her Majesty in Council or their conduct before the said Judicial Committee.

and of rules for conduct of business before Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, nor to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.—OF REFERENCE TO AND REVISION BY THE HIGH COURT.

617. If before or on the hearing of a suit or appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document which construction may affect the merits, arises, on which the Court trying the suit or appeal or executing the decree entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

Reference of question to High Court.

618. The Court may either stay the proceedings or proceed in the case, notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

Court may pass decree contingent upon opinion of High Court.

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment under the signature of the Registrar, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

Judgment of High Court to be transmitted, and case disposed of accordingly.

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

Costs of reference to High Court.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

Power to alter, &c., decrees of Court making reference.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, and may pass such order in the case as the High Court thinks fit.

Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

PART VIII.

CHAPTER XLVII.—OF REVIEW OF JUDGMENT.

Application for review of judgment.

623. Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred ;
- (b) by a decree or order from which no appeal is hereby allowed ; or
- (c) by a judgment on a reference from a Court of Small Causes ;

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when being a respondent, he can present to the Appellate Court the case on which he applies for the review.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

To whom applications for review may be made.

Form of applications for review.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Application when rejected.

626. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion :

Application when granted.

Provided

Proviso.

Provided that—

- (a) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for ; and
- (b) no such application shall be granted on the ground of discovery of new matter, or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Application for review in Court consisting of two or more Judges.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final, but whenever such application is admitted, the admission may be objected to on the ground that it was

Order of Court final.

- (a) in contravention of the provisions of Section 624,
- (b) in contravention of the provisions of Section 626, or
- (c) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as

as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.—SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

This part to apply only to certain High Courts.

Application of Code to High Courts.

632. Except as provided in this chapter the provisions of this Code apply to such High Courts.

High Court to record judgments according to its own rules.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

Attorneys not to address Court, except when authorized.

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants issued under Section 65, writs of execution, and notices under Section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

Process of High Courts may be served by attorneys in suit.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under Section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

Non-judicial acts may be done by Registrar.

The High Court may from time to time by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, Sections 16 and 17, Sections 54, clauses (a) and (b), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), 261, and so much of Section 409 as relates to the making of a memorandum,

Sections not applying to High Court in original civil jurisdiction.

and Section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Code not to affect High Court in exercise of insolvent jurisdiction.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

639. The High Court may from time to time frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLIX.—MISCELLANEOUS.

Exemption of certain women from personal appearance.

640. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

Local Government may exempt certain persons from personal appearance.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may, by like notification, withdraw such privilege.

List of names of persons exempted to be kept in subordinate Court.

The names and residences of the persons so exempted shall from time to time be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court, subordinate to the High Court, shall be kept in such subordinate Court.

Costs of commission rendered necessary by claiming privilege.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

Persons exempt from arrest.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under this Code while going to, presiding in, or returning from his Court.

And, except as hereinafter provided, the parties to a suit and their pleaders and recognized agents shall be exempt from arrest under this Code while going to or attending a Civil Court for the purpose of such suit and while returning from such Court. Witnesses acting in obedience to a summons shall be similarly exempt.

643. When in a case pending before any Court, there appears to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in Section 193, 196, 199, 200, 205, 206, 207, 208, 209, 210, 463, 471, 474, 475, 476 or 477 of the

the Indian Penal Code, which may be made in the course of any other suit or proceeding or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it according to law.

644. Subject to the power conferred on the High Court by Section 639 and by the twenty-fourth and twenty-fifth of Victoria, Chapter 104, Section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any 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 may state a case for the opinion of the Judge; 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.

Power of Registrars of Small Cause Courts to state cases.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

Miscellaneous proceedings.

The High Court may from time to time make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

Admission of affidavits as evidence.

648. If

648. If any person to be arrested or any property to be attached under this Code, resides or is situate outside the District within which the Court issuing the warrant of arrest or making the order of attachment is situate, such Court shall send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate, a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

Procedure when person to be arrested or property to be attached is outside the District.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment,

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued.

649. The rules contained in Chapter XIX shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

Rules applicable to all civil process for arrest, sale or payment.

650. The provisions of Chapters XIV and XV relating to witnesses shall apply to all persons required to give evidence, or to produce documents in any proceeding under this Code.

Application of rules as to witnesses.

651. Whoever offers any resistance or illegal obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Court of Civil Judicature, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for escaping from custody under Code.

652. The High Court may from time to time make rules consistent with this Code to regulate any matter connected with the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Power to make subsidiary rules of procedure.

THE FIRST SCHEDULE.

(See Section 3.)

A.—STATUTE REPEALED.

Year and Chapter.	Title.	Extent of repeal.
29 Char. II, chap. 7 ...	An Act for the better observance of the Lord's day commonly called Sunday.	The whole.

B.—ACTS REPEALED.

Number and Year.	Subject or Title.	Extent of repeal.
IX of 1840 ...	For amending the law administered in Her Majesty's Courts of Justice with reference to Arbitrations, Damages, and interested Witnesses.	So much as has not been repealed.
XXIII of 1840 ...	For executing within the local limits of the jurisdiction of Her Majesty's Courts legal Process issued by authorities in the Mufassal.	So far as it relates to the execution of the process of Civil Courts.
VIII of 1841 ...	Interpleader ...	The whole.
XXVI of 1841 ...	Extending 3 & 4 Wm. IV, c. 42 ...	So much as has not been repealed.
XIV of 1848 ...	Commissions for taking affidavits ...	The whole.
XVII of 1852 ...	Special cases ...	The whole.
XXXIII of 1852 ...	Enforcement of judgments ...	The whole Act, except so far as it relates to the decrees of Military Courts of Requests.
VI of 1855 ...	Writs of execution ...	The whole.
XXXIV of 1855 ...	Execution of judgments ...	The whole.
VIII of 1859 ...	For simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	So much as has not been repealed.
XXIII of 1861 ...	To amend Act VIII of 1859 ...	So much as has not been repealed.
XX of 1862 ...	To provide for the levy of Fees and Stamp-duties in the High Court, &c.	So much as has not been repealed.
XXIV of 1862 ...	To continue in force Act XX of 1862...	So much as has not been repealed.
IX of 1863 ...	To amend the Code of Civil Procedure.	The whole.
XVIII of 1863 ...	To make provision for the speedy and efficient disposal of the business, &c.	So much as has not been repealed.
XXXII of 1863 ...	To continue in force Act XX of 1862...	So much as has not been repealed.

B.—ACTS REPEALED—(Continued).

Number and Year.	Subject or Title.	Extent of repeal.
XI of 1865	Mufassal Small Cause Courts Act	Sections 8, 9, 10, 11, para. 2, 22, 23, 24, 25, 26, 27, 28, 42, and 47, and in Section 32 the words "in the manner prescribed in the twenty-second section of this Act" and "contained in the twenty-second, twenty-third, twenty-fourth, and twenty-fifth sections of this Act."
XIV of 1865	Central Provinces Courts Act...	Sections 17 and 18.
XIX of 1865	Panjáb Courts Act	Sections 13 and 17.
V of 1866	To provide a summary procedure on Bills of Exchange, &c.	In the title, the words 'to provide a summary procedure on Bills of Exchange and,' The preamble down to and including the words 'Notes; and' In Section 1, the definitions of 'High Court' and 'Local Government.' Sections two to eight (both inclusive). Section fourteen.
XXIV of 1866	High Court, North-Western Provinces.	So much as has not been repealed.
X of 1867	References by Mufassal Small Cause Courts.	The whole.
XXVI of 1867	To amend the law relating to Stamp-duties.	So much as has not been repealed.
XV of 1869	Prisoners' Testimony Act	So much of Sections 15 and 16 as relates to process issued by a Civil Court.
IX of 1873	Panjáb Appeals Act, 1873	Sections 9 and 10.
VI of 1874	The Privy Council Appeals Act, 1874...	The whole.

C.—REGULATIONS REPEALED.

Bengal Regulation XX of 1810.	Cantonments	So much of Section XIX as relates to civil process.
Madras Regulation XIV of 1816.	Vakils	Section 27.

THE SECOND SCHEDULE.

(See Section 5.)

Chapters and Sections of this Code extending to Mufassal Courts of Small Causes.

PRELIMINARY : Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except Section 11.

CHAPTER II.—Of the Place of Suing, except Section 20, paragraph 4, and Sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except Section 42 and Section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except Section 77.

CHAPTER VII.—Of the appearance of the parties and consequence of Non-appearance.

CHAPTER VIII.—Section 111, Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except Section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except Sections 182 to 188 (both inclusive).

CHAPTER XVII.—Of Judgment and Decree, except Sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Sections 220, 221 and 222, of Costs.

CHAPTER XIX.—Of the Execution of Decrees, Sections 230 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of Section 433.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER

- CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.
 CHAPTER XXXII.—Suits by and against Military Men.
 CHAPTER XXXIII.—Interpleader.
 CHAPTER XXXIV.—Of Arrest and Attachment before Judgment.
 CHAPTER XXXVII.—Reference to Arbitration, Sections 506 to 522 (both inclusive).
 CHAPTER XXXVIII.—Of proceedings on Agreement of Parties.
 CHAPTER XLVI.—Reference to and Revision by High Court.
 CHAPTER XLVII.—Of Review of Judgment.
 CHAPTER XLIX.—Miscellaneous, Sections 640 to 647 (both inclusive), Section 648 (so far as relates to arrests), Sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See Section 7.)

Bombay Enactments.

- Bombay Regulation XXIX, 1827.
 " " VII, 1830.
 " " I, 1831.
 " " XVI, 1831.
 Act XIX of 1835.
 " XIII of 1842.

THE FOURTH SCHEDULE.

(See Section 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PART I. PLAINTS.

No. 1.

FOR MONEY LENT.

IN THE COURT OF

AT

Civil Suit No.

A.B. of

against

C.D. of

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, at defendant Rupees repayable on demand [or on the day of]

, he lent the

2. That

2. That the defendant has not paid the same, except Rupees paid on the day of 18 .
 [If the plaintiff claims exemption from any law of limitation, say :—
 3. The plaintiff was a minor [or insane] from the day of till the day of].
 4. The plaintiff prays judgment for Rupees, with interest at per cent. from the day of 18 .

[NOTE.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore, interest is not claimed, the statement may be omitted.]

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(Title.)

A. B. and G. H., the above-named plaintiffs, state as follows :—

1. That on the day of 18, at , the defendant received Rupees [or a cheque on the Bank for Rs.] from one E. F. for the use of the plaintiffs.
 2. That the defendant has not paid [or delivered] the same accordingly.
 3. The plaintiffs pray judgment for Rupees, with interest at per cent. from the day of 18 .

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, at , he and E. F., since deceased, delivered to the defendant [one thousand barrels of flour, five hundred maunds of rice, or as the case may be] for sale upon commission. 18 [or, on some day unknown to
 2. That on the day of 18], the defendant sold the said merchandise for Rupees.
 3. That the commission and expenses of the defendant thereon amount to Rupees.
 4. That on the day of 18, the plaintiff demanded from the defendant the proceeds of the said merchandise.
 5. That he has not paid the same.

[Demand of judgment.]

No. 4.

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at Annas per tola of fine silver.
2. That the plaintiff procured the said bars to be assayed by one E. F., who was paid by the defendant for such assay, and that the said E. F. declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. Annas therefor.
3. That each of the said bars did contain only 1,200 tolas of fine silver.
4. That the defendant has not repaid the sum so overpaid.

[Demand of judgment.]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , at the request [or by the authority] of the defendant, the plaintiff paid to one E. F. Rupees.
2. That, in consideration thereof, the defendant promised [or became bound] to pay the same to the plaintiff on demand [or as the case may be].
3. That [on the day of 18 , the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[Demand of judgment.]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , E. F. of deceased, sold and delivered to the defendant [one hundred barrels of flour, or, the goods mentioned in the schedule hereto annexed, or, sundry goods].
2. That the defendant promised to pay Rupees for the said goods on delivery [or on the day of some day before the plaint was filed].
3. That he has not paid the same.

A. M. L.

4. That the said E. F. in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5. That on the day of 187 the said E. F. died.

6. That on the day of probate of the said will was granted to the plaintiff by the Court of .

7. The plaintiff as executor as aforesaid [Demand of judgment.]

[NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff sold and delivered to the defendant [sundry articles of house furniture] but no express agreement was made as to the price.
2. That the same were reasonably worth Rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff sold to the defendant [one hundred barrels of flour] and, at the request of the defendant, delivered the same to one E. F.
2. That the defendant promised to pay to the plaintiff Rupees therefor.
3. That he has not paid the same.

[Demand of judgment.]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff furnished to [Mary Jones] the wife of James Jones, deceased, at her request, sundry articles of [food and clothing], but no express agreement was made as to the price.
2. That

2. That the same were necessary for her.
3. That the same were reasonably worth Rupees.
4. That the said *James Jones* refused to pay the same.
5. That the defendant is the executor of the last will of the said *James Jones*.

[Demand of judgment.]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff sold to *E. F.* of deceased [*all the crops then growing on his farm in*].
2. That the said *E. F.* promised to pay the plaintiff Rupees for the same.
3. That he did not pay the same.
4. That the defendant is administrator of the estate of the said *E. F.*

[Demand of judgment.]

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , *E. F.* of sold to the defendant [*all the fruit growing in his orchard in*], but no express agreement was made as to the price.
2. That the same was reasonably worth Rupees.
3. That the defendant has not paid the same
4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid [Demand of judgment.]

[NOTE.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following :—]

4. That on the day of the Civil Court of duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid [Demand of judgment.]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , *E. F.* of agreed with the plaintiff that the plaintiff should make for him [*six tables and fifty chairs*], and that the said *E. F.* should pay for the same upon delivery thereof rupees.
2. That the plaintiff made the said goods, and on the day of 18 offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.
3. That the said *E. F.* has not accepted the said goods or paid for the same.
4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the defendant committee of his estate.
5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff put up at auction sundry [*articles of merchandise*], subject to the condition that all goods not paid for and removed by the purchaser thereof, within [*ten days*] after the sale, should be re-sold by auction on his account, of which condition the defendant had notice.
2. That the defendant purchased [*one crate of crockery*] at the said auction at the price of rupees.
3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [*ten days*] thereafter, of which the defendant had notice.
4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [*ten days*] after the sale, nor afterwards.
5. That on the day of 18 , at , the plaintiff re-sold the said [*crate of crockery*], on account of the defendant, by public auction, for rupees.
6. That the expenses attendant upon such re-sale amounted to rupees.
7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[Demand of judgment.]

[NOTE to § 4. Unless the seller agreed to deliver, the purchaser must fetch the goods. See Act IX of 1872, Sec. 93.]

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of or, a farm known as , in or, a piece of land lying, &c.]
2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, or farm, or land].
3. That he has not paid the same.

[Demand of judgment.]

[NOTE.—Where there has been no actual conveyance, say, in § 1, “sold to the defendant the house, &c., and placed him in possession of the same.”]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. in the town of or one hundred beghás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.
2. That on the day of 18 , at , the plaintiff tendered [or, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.
3. That the defendant has not paid the said sum.

[Demand of judgment.]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].
2. That

2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his clerk.
3. That the defendant has not paid the said salary.

[Demand of judgment.]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That between the day of 18 , and the day of 18 , at , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.
2. That the said services were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him.]
2. That the defendant promised to pay rupees therefor.
3. That he has not paid the same.

[Demand of judgment.]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request; but no express agreement was made as to the price to be paid for such work and materials.
2. That the said work and materials were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 20.

FOR RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a covenant with the plaintiff, under their hands, a copy of which is hereto annexed.

[Or state the substance of the agreement.]

2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[Demand of judgment.]

Another Form.

1. That the plaintiff let to the defendant a house No. 27 Chowringhee for seven years to hold from the day of 187 at rupees a year, payable quarterly.

2. That of such rent quarters are due and unpaid.

[Demand of judgment.]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , street], at the rent of rupees, payable on the first days of .

2. That the defendant occupied the said premises from the day of 18 to the day of 18 .

3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[Demand of judgment.]

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of X. Y., deceased, states as follows:—

1. That the defendant occupied the [house No. , street], by permission of the said X. Y., from the day of 18 , until the day of 18 , and no agreement was made as to payment for the use of the said premises.

2. That

2. That the use of the said premises for the said period was reasonably worth rupees.
3. That the defendant has not paid the same.
4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23.

FOR BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. , street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessities.

2. That in consideration thereof, the defendant promised to pay [or that no agreement was made as to payment for such meat, drink, attendance or necessities, but the same were reasonably worth] the sum of rupees.

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 24.

FOR FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff transported in [his barge, or otherwise] [one thousand barrels of flour, or sundry goods], from to , at the request of the defendant.

2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon. Or, that no agreement was made as to payment for such transportation, but that such transportation was reasonably worth rupees.]

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 25.

FOR PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the] from to at his request.

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2. That

2. That the defendant promised to pay the plaintiff rupees therefor.
[or that no agreement was made as to the price of the said passage; but that the said passage was reasonably worth rupees.]
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of E. F. and G. H., as arbitrators [or, entered into an agreement, a copy of which is hereto annexed.]
2. That on the day of 18, at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees.]
3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—This will apply where the agreement to refer is not filed in Court.]

No. 27.

ON A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, at , in the State [or Kingdom] of , the Court of that State [or Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.
2. That the defendant has not paid the same.

[Demand of judgment.]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the

the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.

2. That afterwards, on the day of 187, the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[Demand of judgment.]

No. 29.

PAYEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, at , the defendant by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.
2. That he has not paid the same [except rupees, paid on the day of 18].

[Demand of judgment.]

[NOTE.—Where the note is payable after notice, for paras. 1 and 2 substitute—]

1. That on the day of at the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.
2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.
3. That the said time for payment has elapsed, but the defendant has not paid the same.

[Where the note is payable at a particular place, say—]

- 1.—That on the day of 187, at , the defendant by his promissory note now overdue promised to pay to the plaintiff [at Messrs. A. and Co., Madras] rupees months after date.
- 2.—That the said note was duly presented for payment [at Messrs. A. and Co.] aforesaid, but has not been paid.

Written statement of the Defendant.

In the Court, &c.

C. D., the above-named defendant, states as follows :—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.
2. The plaintiff thereupon undertook to examine the partnership books and enquire into the state of the partnership assets and liabilities; and he did accordingly examine the said books and make

make the said enquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact ~~was~~ that the assets of the firm were less than Rs. 50,000, and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second para. of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note, now overdue, promised to pay to the order of E. F. [or to E. F. or order] rupees [days after date].
2. That the said E. F. indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in the preceding form.]
2. That the same was, by the indorsement of the said E. F. and of G. H. and I. J. [or and other] transferred to the plaintiff.

[Demand of judgment.]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That E. F., on the day of 18 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.
2. That the defendant indorsed the same to the plaintiff.
3. That on the day of 18 the same was duly presented for payment, but was not paid.

[Or state facts excusing want of presentment.]

4. That the defendant had notice thereof.

5. That he has not paid the same.

[Demand of judgment.]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one E. F. a promissory note, now overdue, made [or purporting to have been made] by one G. H., on the day of 18 at , to the order of the defendant, for the sum of rupees [payable days after date].
2. That the same was by the indorsement of the said E. F., [and others] transferred to the plaintiff. [Or, that the said E. F. indorsed the same to the plaintiff.]
- 3, 4 and 5. [Same as 3, 4 and 5 of the preceding form.]

[Demand of judgment.]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , to the order of one G. H., for the sum of rupees [payable days after date], and indorsed by the said G. H. to the defendant.
- 2, 3 and 4. [As in No. 33.]

[Demand of judgment.]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , to the order of one G. H., for the sum of rupees [payable days after date], and indorsed by the said G. H. to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.
- 2, 3 and 4. [As in No. 33.]

[Demand of judgment.]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, FIRST AND SECOND INDORSER.

IN THE COURT OF AT

Civil Suit No.

A. B. of
against
C. D. of
E. F. of
and
G. H. of

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, C. D., by his promissory note, now overdue, promised to pay to the order of the defendant, E. F., rupees [months after date].
2. That the said E. F. indorsed the same to the defendant, G. H., who indorsed it to the plaintiff.
3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said C. D. for payment, but was not paid.
4. That the said E. F. and G. H. had notice thereof.
5. That they have not paid the same.

[Demand of judgment.]

No. 37.

DRAWER AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, or sight thereof].
2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated, otherwise it is not necessary.*]
3. That he has not paid the same.
4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[Demand of judgment.]

[NOTE.—Where the bill is payable to a third party, for paras. 1, 2, 3, say—]

1. That on &c., at &c., by his bill of exchange, now overdue, directed to the defendant the plaintiff required the defendant to pay to E. F. or order rupees months after date.
2. That the plaintiff delivered the said bill to the said E. F. on
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

No. 38.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one E. F., on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof.
2. That he has not paid the same.

[Demand of judgment.]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one E. F., on the day of 18 , at , requiring the defendant to pay to the order of one G. H. rupees after sight thereof.
2. That the said G. H. indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. [*As in the preceding form to the end of art. 1.*]
2. That by the indorsement of the said G. H. [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, by his bill of exchange, directed to E. F., required the said E. F. to pay to the plaintiff rupees [days after sight].

2. That

2. That on the day of 18 , the same was duly presented to the said *E. F.* for acceptance, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

[NOTE.—Notice of dishonour by non-acceptance must be given at once.]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at requiring one *G. H.* to pay to the order of the defendant rupees [days] after sight [or after date, or at sight] thereof, [and accepted by the said *G. H.* on the day of 18 .]
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to one *E. F.*, a bill of exchange, now overdue, made [or purporting to have been made] by one *G. H.*, on the day of 18 , at requiring one *I. J.* to pay to the order of the defendant rupees days after sight thereof [or otherwise], and accepted by the said *I. J.* on the day of 18 .
[This clause may be omitted, if not according to the fact.]
2. That the same was, by the endorsement of the said *E. F.* [and others], transferred to the plaintiff.
3. That on the day of 18 the same was presented to the said *I. J.* for payment, and was dishonoured.
4. That the defendant had due notice thereof.
5. That he has not paid the same.

[Demand of judgment.]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [or otherwise], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.*, to pay to the order of one *I. J.* rupees days after sight thereof [or otherwise], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF

AT

Civil Regular No.

A. B. of
against
C. D. of
E. F. of
G. H. of

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.*, rupees [days after sight thereof].

2. That

2. That on the day of 18 , the said *E. F.* accepted the same.
3. That the said *G. H.* indorsed the same to the plaintiff.
4. That on the day of 18 , the same was presented to the said *E. F.* for payment, and was dishonoured.
5. That the other defendants had due notice thereof.
6. That they have not paid the same.

[Demand of judgment.]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bill of exchange drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.
 2. That on the day of 18 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.
 3. That the defendant had due notice thereof.
 4. That he has not paid the same.
 5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]
- Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18 .

No. 48.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [or days after sight] thereof.
2. That on the day of 18 , the defendant accepted the said bill.
3. That he has not paid the same.

[Demand of judgment.]

NOTE.—This form omits to state the delivery of the bill to the plaintiff or his title to sue. See *Churchill v. Gardner*, 7 T. R. 596].

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or, had an interest in] the ship at the time of its loss, as hereafter mentioned.
2. That on the day of 18 , at , the defendants, in consideration of rupees to them paid [or, which the plaintiff then promised to pay], executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed; [or, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during its next voyage from to , whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees].
3. That the said vessel, while proceeding on the voyage mentioned in the said policy, was on the day of 18 , totally lost by the perils of the sea [or, otherwise].
4. That the plaintiff's loss thereby was rupees.
5. That on the day of 18 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendants have not paid the said loss.

[Demand of judgment.]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or, had an interest in] [one hundred bales of cotton] on board the ship at the time of its loss as hereafter mentioned.
2. That on the day of 18 , at , the defendant, in consideration of rupees which the plaintiff then paid [or, promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [or, whereby it promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; or, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should exceed per centum of the whole value of the goods].
3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire.
- 4 and 5. [As in paragraphs 5 and 6 of the last preceding Form].

[Demand of judgment.]

No. 51.

No. 51.

ON FREIGHT:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff had an interest in the freight to be earned by the ship [] on her voyage from to , at the time of her loss as hereafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.
 2. That on the day of 18 , at , the defendant in consideration of rupees to it paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [or state its tenor, as before].
 3. That the said vessel, while proceeding upon the voyage mentioned in the said policy, was, on the day of 18 , totally lost by [the perils of the sea].
 4. That the plaintiff has not received any freight from the said vessel, nor did she earn any on the said voyage, by reason of her loss as aforesaid.
- 5 and 6. [As in Form No. 50.]

[Demand of judgment.]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or, had an interest in] [one hundred bales of cotton] shipped on board a vessel called the Y. Z., from to , at the time of the loss hereafter mentioned.
2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [or state its tenor, as before.]
3. That on the day of 18 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea, that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.
4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.
5. That on the day of 18 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendant has not paid the said loss.

[Demand of judgment.]

No. 53.

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

- 1 and 2. [As in the preceding Form.]
 3. That on the day of 18 , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of rupees.
 - 4 and 5. [As in paragraphs 5 and 6 of the preceding Form.]
- [Demand of judgment.]

No. 54.

ON A FIRE INSURANCE POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, or] had an interest in a [dwelling-house, known as No. , street, in the city of ,] at the time of its destruction [or, injury] by fire as hereinafter mentioned.
2. That on the day of 18 , at , in consideration of rupees [to it paid] the defendant executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [or state its tenor].
3. That on the day of 18 , the said [dwelling-house] was totally destroyed [or, greatly damaged] by fire.
4. That the plaintiff's loss thereby was rupees.
5. That on the day of 18 , he furnished the defendant with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendant has not paid the said loss.

[Demand of judgment.]

No. 55.

AGAINST SUBTIES FOR PAYMENT OF RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one B. F. hired from the plaintiff, for the term of years, the [house No. , street,], at the annual rent of rupees, payable [monthly].
2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said B. F., to guarantee the punctual payment of the said rent.
3. That the rent aforesaid for the month of 18 , amounting to rupees, has not been paid.

KO

[If, by the terms of the agreement, notice is required to be given to the surety, add:—]

4. That on the day of 18 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.
5. That he has not paid the same.

[Demand of judgment.]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[Or That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of ten thousand rupees payable as hereafter mentioned, he would, on the day of 18 , at , execute to the plaintiff a sufficient conveyance of [the house No. street, in the city of free from all incumbrances; and the plaintiff agreed to pay ten thousand rupees for the same on delivery thereof].

2. That on the day of 18 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [or, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]

3. That the defendant has not executed any conveyance of the said property to the plaintiff [or That there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 18 , and still unsatisfied, or any other defect of title].

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

The plaintiff prays judgment for rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[Or That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff, forty bighás of land in the village of for rupees].

2. That on the day of 18 , at , the plaintiff being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing, and offered to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That by an agreement dated the day of 187 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say)—

(a.) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 187 , on which day the said purchase should be completed.

(b.) That the plaintiff should deduce and make a good title to the said premises on or before the day of 187 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[Demand of judgment.]

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff

plaintiff [on the day of 18 ,] and that the plaintiff should pay therefor rupees on delivery.

2. That on the [said] day, the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[Demand of judgment.]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or, in the capacity of foreman, or as the case may be], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].

2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[Demand of judgment.]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. [As in last preceding Form.]

2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[Demand of judgment.]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at [an annual] compensation

compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].

2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 offered so to do].

3. That the defendant [entered upon the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he] refused to serve the plaintiff as aforesaid.

[Demand of judgment.]

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed :

[Or state the tenor of the contract.]

[2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[Demand of judgment.]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed :

[Or state the tenor of these covenants.]

2. That after the making of the said agreement, the plaintiff received the said [apprentice] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [apprentice] wilfully absented himself from the service of the plaintiff, and continues so to do.

[Demand of judgment.]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his father, E. F., under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not [instructed the plaintiff in the business of , or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment.]

[Demand of judgment.]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff employed one E. F. as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[Or, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.]

[Or, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is annexed.]

3. That between the day of 18 and the day of 18 , the said E. F. received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. street,] for the term of years, covenanting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of G. H. and I. J. by such removal.]

[Demand of judgment.]

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

[Demand of judgment.]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant, being partners in trade under the firm of A. B. and C. D., dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That

2. That the plaintiff duly performed all the conditions of the said agreement on his part.
3. That on the day of 18 [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18 ,] the plaintiff paid rupees [in satisfaction of the same].
4. That the defendant has not paid the same to the plaintiff.
- [Demand of judgment.]

No. 70.

BY SHIP-OWNER AGAINST FREIGHT OR FOR NOT LOADING.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.
- [Or, 1. That on , at , the plaintiff and defendant agreed by charter party that the defendant should deliver to the plaintiff's ship at , on the day of 18 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]
2. That at the time fixed by the said agreement the plaintiff was ready and willing and offered to receive [the said merchandise, or, the merchandise mentioned in the said agreement] from the defendant.
3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.
- Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

- That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].
- [Demand of judgment.]

No. 72.

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.
2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

No. 73.

FOR TRESPASS ON MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [or seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, or as the case may be], and carried away the same and disposed of them to his own use :
[or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]
2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [otherwise state the injury according to the facts].

[Demand of judgment.]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [or of one thousand barrels of flour].
2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[Demand of judgment.]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [or, rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.
2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].
3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [or, the full amount of storage due thereon], but the defendant refused to deliver the same.
4. That the plaintiff was thereby prevented from selling the said goods to E. F., and the same are lost to the plaintiff.

[Demand of judgment.]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].
2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.
3. That the said representations were false [or, state the particular falsehoods], and were then known by the defendant to be so.
4. That the defendant has not paid for the said goods. [Or, if the goods were not delivered] That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.

[Demand of judgment.]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant represented to the plaintiff, that one E. F. was solvent and in good credit, and worth rupees over all his liabilities [or, that E. F. then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That

2. That the plaintiff was thereby induced to sell to the said E. F. [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [or, to deceive and injure the plaintiff].

4. That the said E. F. [did not pay for the said goods at the expiration of the credit aforesaid, or,] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.
2. That on the day of 18 , the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.
3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[Demand of judgment.]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called situate in
2. That ever since the day of 18 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.
3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. That

4. That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep, as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

FOR OBSTRUCTING A WAY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is, and at the time hereafter mentioned was, possessed of [a house in the town of _____].
2. That he was accustomed to pass [with vehicles, or, on foot] along a certain way leading from his said house to [the highway].
3. That on the _____ day of _____ 18____, the defendant obstructed the said way, so that the plaintiff could not pass [with vehicles, or, on foot, or, in any manner] along the said way [and has ever since obstructed the same.]
4. [State special damage, if any].

[Demand of judgment].

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from _____ to _____ so as to obstruct it.
2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[Demand of judgment.]

No. 81.

FOR DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream], known as the _____, in the village of _____, district of _____
2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That

3. That on the _____ day of _____ 18____, the defendant, by cutting the bank of the said stream, diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof, the plaintiff has been unable to grind more than _____ sacks per day, whereas before the said diversion of water, he was able to grind _____ sacks per day.

[Demand of judgment.]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c., and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.
2. That on the _____ day of _____ the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by obstructing and diverting the said stream.

[Demand of judgment.]

No. 83.

FOR WASTE BY A LESSEE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, the defendant hired from him the [house No. _____ street _____] for the term of _____
2. That the defendant occupied the same under such hiring.
3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; or otherwise specify the injuries as far as possible].

The plaintiff prays judgment for _____ rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

That on the _____ day of _____ 18____, at _____, the defendant assaulted and beat him.

The plaintiff prays judgment for _____ rupees compensation.

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat the plaintiff, until he became insensible.
2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [Or otherwise state the damage, as the case may be].

[Demand of judgment.]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [or hours]; [state special damage, if any, thus:—]
2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment, [or otherwise as the case may be].

[Demand of judgment.]

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .
2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.
3. That while he was such passenger, at [or, near the station of ; or, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., and state the special damage if any, as], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as a salesman.

[Demand of judgment.]

[Or

[Or thus:—2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., as in § 3].

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

The defendant

1. The plaintiff is a shoe-maker, carrying on business at is a merchant of
2. On the [23rd May 1875], the plaintiff was walking eastward along Chowringhee, in the city of Calcutta, at about three o'clock in the afternoon. He was obliged to cross Harington street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Harington street into Chowringhee. The pole of the carriage struck the plaintiff, and knocked him down, and he was much trampled by the horses.
3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(Title.)

Written Statement of Defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. E. F. and G. H.] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said Messrs. E. F. and G. H.
2. The defendant does not admit that the said carriage was turned out of Harington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.
3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.
4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to E. F.], the following words concerning the plaintiff:—

[Set forth the words used.]

2. That the said publication was false and malicious.

[Demand of judgment.]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus:—“Which said words, being translated into the language, have the meaning and effect following, and were so understood by the persons to whom they were so published, that is to say, [here set out a literal translation of the libel in the language of the Court].”

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 merchant, doing business in the city of , the defendant published in a newspaper, called the [or, in a letter addressed to E. F., or otherwise show how published], the following words concerning the plaintiff:—

[“A. B., of this city, has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address.”]

3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. That the said publication was false and malicious.

[Demand of judgment.]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of E. F. [or, sundry persons], the following words concerning the plaintiff: “He is a thief”].

2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of [Demand of judgment.]

No. 92.

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one E. F. concerning the plaintiff: [“He is a young man of remarkably easy conscience.”]
2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.
3. That, in consequence of the said words, [the said E. F. refused to employ the plaintiff as a clerk].

[Demand of judgment.]

No. 93.

FOR MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, or, as the case may be,] on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, or hours, and gave bail in the sum of rupees to obtain his release].

2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.

3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one E. F., or, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[Demand of judgment.]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That X. Y. was the absolute owner of [the estate, or, the share of the estate, called , situate in the district of , the Government revenue of which is rupees and the]

the estimated value rupees or, of the house No. , street in the town of Calcutta, the estimated value of which is rupees].

2. That on the day of 18 , Z. illegally dispossessed the said X. Y. of the said estate [or share or house].

3. That the said X. Y. has since died intestate, leaving the plaintiff the said A. B. his heir him surviving.

4. That the defendant withholds the possession of the estate [or share or house] from the plaintiff.

The plaintiff prays judgment :

- (1) For the possession of the said premises;
- (2) For rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows :—

1. On the day of , the plaintiff, by an instrument in writing, let to the defendant a house and premises No. 52, Russell Street, in the for a term of five years from the day of , at the monthly rent of Rupees 300.

2. By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the day of 187 a month's rent became due, and on the day of 187 another month's rent became due; on the day of 187 both had been in arrear for twenty-one days, and both are still due.

5. On the same day of 187 the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims :

- (1) Possession of the said house and premises ;
- (2) Rupees for arrears of rent ;
- (3) Rupees compensation for the defendant's breach of his covenant to repair ;
- (4) Rupees for the occupation of the house and premises from the day of 187 to the day of recovering possession.

No. 95.

BY THE TENANT.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That one E. F. is the absolute owner of [a piece of land in the town of Calcutta, , bounded as follows :], the estimated value of which is rupees .

2. That

2. That on the day of 18 , the said E. F. let the said premises to the plaintiff for years from

3. That the defendant withholds the possession thereof from the plaintiff.

[Demand of judgment.]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff owned [or was possessed of] one hundred barrels of flour, the estimated value of which is rupees .

2. That on that day, at , the defendant took the same.

The plaintiff prays judgment :

- (1) For the possession of the said goods, or for rupees in case such possession cannot be had ;
- (2) For rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff owned [or, state facts showing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is rupees .

2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.

3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment :

- (1) For the possession of the said goods, or for rupees, in case such possession cannot be had ;
- (2) For rupees compensation for the detention thereof.

The Schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant [C. D.], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff, that [he was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.

3. That the said representations were false, and were then known by the said *C. D.* to be so. [Or, That at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]

4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.*, without consideration [or who had notice of the falsity of the representation].

The plaintiff prays judgment :

- (1) For the possession of the said goods, or for rupees, in case such possession cannot be had ;
- (2) For rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].

2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. That on the day of 18 , the plaintiff paid the defendant rupees as part of such purchase-money.

4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment :

- (1) For rupees, with interest from the day of 18 ;
- (2) That the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is the absolute owner of [describe the property].

2. That the defendant is in possession of the same under a lease from the plaintiff.

3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[Pecuniary compensation might also be prayed.]

No. 101.

No. 101.

FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. , street, Calcutta].

2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].

3. That on the day of 18 , the defendant erected upon his said lot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

[As in No. 81.]

The plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [or state any facts showing that the property is of a kind that cannot be replaced by money].

2. That on the day of 18 , he deposited the same for safe-keeping with the defendant.

3. That on the day of 18 , he demanded the same from the defendant, and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the said [painting].

The

The plaintiff prays judgment:

- (1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said [painting];
- (2) That he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one G. H. deposited with the plaintiff [describe the property] for [safe-keeping].
2. That the defendant, C. D., claims the same [under an alleged assignment thereof to him from the said G. H.].
3. That the defendant, E. F., also claims the same [under an order of the said G. H. transferring the same to him].
4. That the plaintiff is ignorant of the respective rights of the defendants.
5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.
6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

- (1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;
- (2) That they be required to interplead together concerning their claims to the said property;
- [(3) That some person be authorized to receive the said property pending such litigation];
- (4) That upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. E. F., late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [here insert nature of debt and security, if any].
2. The said E. F. made his Will, dated the day of and thereof appointed C. D. executor [or, devised his estate in trust, &c., or, died intestate, as the case may be].
3. The said Will was proved by the said C. D. [or, letters of administration were granted, &c.].
4. The defendant has possessed himself of the moveable [and immoveable, or, the proceeds of the immoveable] property of the said E. F., and has not paid the plaintiff his said debt.
5. The said E. F. died on or about the day of
6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said E. F., deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEES.

(Title.)

[Alter Form 105 thus:—]

[Omit paragraph 1 and commence paragraph 2] E. F., late of , duly made his last Will, dated the day of and thereof appointed C. D. executor, and by such Will bequeathed to the plaintiff [here state the specific legacy].

For paragraph 4, substitute—

The defendant is in possession of the moveable property of the said E. F., and, amongst other things, of the said [here name the subject of the specific bequest].

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [here name the subject of the specific bequest] or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEES.

(Title.)

[Alter Form 105 thus:—].

[Omit paragraph 1 and substitute for paragraph 2] E. F., late of , duly made his last Will, dated the day of , and thereof appointed C. D. executor, and by such Will bequeathed to the plaintiff a legacy of rupees .
In paragraph 4, substitute "legacy" for "debt."

Another Form.

Between E. F. Plaintiff,
and
G. H. Defendant.

A. B., the above-named plaintiff, states as follows:—

1. A. B. of K. in the duly made his last Will, dated the [first day of March 1873], whereby he appointed the defendant and M. N. [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.
2. The testator died on the [first day of July 1873], and his Will was proved by the defendant on the [fourth of October 1873]. The plaintiff has not been married.
3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt of the rents of the immoveable property and got in the moveable property; he has sold some part of the immoveable property.

The plaintiff claims—

- (1) To have the moveable and immoveable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.
- (2) Such further or other relief as the nature of the case may require.

Between *E. F.* Plaintiff,
 and
G. H. Defendant.

Written Statement of Defendant.

1. *A. B.*'s Will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees and the testator had some moveable property which the defendant got in, and which produced the nett sum of rupees
2. The defendant applied the whole of the said sums and the sum of rupees which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.
3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth of January 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.
4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF

AT

Civil Regular No.

A. B. of ... Plaintiff,

against

C. D. of the beneficiary [or, one of the beneficiaries], ... Defendant.

A. B., the above-named plaintiff, states as follows :—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of the said *E. F.* and *G. H.* the father and mother of the defendant [or, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*].
2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [or, of the proceeds of] the moveable and immoveable property conveyed [or assigned] by the before-mentioned deed.
3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.
4. The

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, or of part of the said, immoveable property, or moveable, or the proceeds of the sale of, or of part of, the said moveable, property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may show good cause to the contrary.

[*N.B.*—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, on the plaint by a legatee.]

No. 109.

FORECLOSURE OR SALE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. By an instrument of mortgage bearing date on or about the day of 18, a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed [or assigned] by the defendant to him the plaintiff, his heirs [or executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon after the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.
2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.
3. The plaintiff prays (a) that the Court will order the defendant to pay him the said sum of Rs. with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the equity of redemption of the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (b) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (c) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (d) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

(Title.)

[Alter Form 109 thus :—].

Transpose parties and also the facts in paragraph 1.
 or paragraph 2, substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, substitute—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey [or re-assign] the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance [or assignment], and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1.)

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. By an agreement dated the day of and signed by the above-named defendant, C. D., he the said C. D. contracted to buy of [or sell to] him certain immoveable property, therein described and referred to, for the sum of Rs. .
2. He has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.
3. The said A. B. has been and still is ready and willing specifically to perform the agreement on his part, of which the said C. D. has had notice.
4. The plaintiff prays that the Court will order the said A. B. specifically to perform the said agreement, and to do all acts necessary to put the said A. B. in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[N.B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled, such as that the plaintiff signed it by mistake, under distress, or by the fraud of the defendant, and alter the prayer according to the relief sought.]

No. 112.

SPECIFIC PERFORMANCE. (No. 2.)

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.
2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.
3. That on the day of 18 , the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That

4. That on the day of 18 , the plaintiff again demanded such conveyance. [Or, that the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment :

- (1) That the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement].
- (2) For rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. He and the said C. D., the defendant, have been for the space of years [or months] last past carrying on business together at within the jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively, [or, under a certain deed sealed and executed by them respectively, or, under a verbal agreement between them, the said plaintiff and defendant].

2. Diverse disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [or deed, or agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [or deed, or agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by of or by Pleader for the plaintiff,

[N.B.—In suits for winding-up of any partnership, omit the prayer for dissolution : but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, Section 58.]

Money lent.	The plaintiff's claim is	rs. for money lent [and interest].
Several demands.	The plaintiff's claim is	rs., whereof rs. is for the
	price of goods sold, and	rs. for money lent, and rs. for interest.
Rent.	The plaintiff's claim is	rs. for arrears of rent.
Salary, &c.	The plaintiff's claim is	rs. for arrears of salary as a clerk,
	[or, as the case may be].	
Interest.	The plaintiff's claim is	rs. for interest upon money lent.
General average.	The plaintiff's claim is	rs. for a general average contribu-
	tion.	
Freight, &c.	The plaintiff's claim is	rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is	rs. for money deposited with the
	defendant as a banker.	
Fees, &c., as pleader.	The plaintiff's claim is	rs. for fees for work done [and
	rs. money expended] as a pleader.	
Commission.	The plaintiff's claim is	rs. for commission earned as [state
	character, as auctioneer, cotton-broker, &c.]	
Medical attendance, &c.	The plaintiff's claim is	rs. for medical attendances.
Return of premium.	The plaintiff's claim is	rs. for a return of premiums paid
	upon policies of insurance.	
Warehouse rent.	The plaintiff's claim is	rs. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is	rs. for the carriage of goods by
	railway.	
Use and occupation of houses.	The plaintiff's claim is	rs. for the use and occupation of a
	house.	
Hire of goods.	The plaintiff's claim is	rs. for the hire of [furniture].
Work done.	The plaintiff's claim is	rs. for work done as a [surveyor].
Board and lodging.	The plaintiff's claim is	rs. for board and lodging.
Schooling.	The plaintiff's claim is	rs. for the [board, lodging and]
	tuition of X. Y.	
Money received.	The plaintiff's claim is	rs. for money received by the
	defendant as pleader [or factor, or collector, or, &c.] of the plaintiff.	
Fees of office.	The plaintiff's claim is	rs. for fees received by the defend-
	ant under colour of the office of	
Money overpaid.	The plaintiff's claim is	rs. for a return of money overcharg-
	ed for the carriage of goods by railway.	
	The plaintiff's claim is	rs. for a return of fees overcharged
	by the defendant as	
Return of money by stakeholder.	The plaintiff's claim is	rs. for a return of money deposited
	with the defendant as stake-holder.	
Money won from stake-holder.	The plaintiff's claim is	rs. for money entrusted to the
	defendant as stake-holder, and become payable to plaintiff.	
Money entrusted to agent.	The plaintiff's claim is	rs. for a return of money entrusted
	to the defendant as agent of the plaintiff.	

The

Money obtained by fraud.	The plaintiff's claim is	rs. for a return of money obtained
	from the plaintiff by fraud.	
Money paid by mistake.	The plaintiff's claim is	rs. for a return of money paid to
	the defendant by mistake.	
Money paid for consideration which has failed.	The plaintiff's claim is	rs. for a return of money paid to the
	defendant for [work to be done, or work left undone; or, a bill to be	
	taken up, or, a bill not taken up, or, &c.].	
	The plaintiff's claim is	rs. for a return of money paid as a
	deposit upon shares to be allotted.	
Money paid by surety for defendant.	The plaintiff's claim is	rs. for money paid for the defendant
	as his surety.	
Rent paid.	The plaintiff's claim is	rs. for money paid for rent due by
	the defendant.	
Money paid on accommodation-bill.	The plaintiff's claim is	rs. upon a bill of exchange accepted
	[or indorsed] for the defendant's accommodation.	
Contribution by surety.	The plaintiff's claim is	rs. for a contribution in respect of
	money paid by the plaintiff as surety.	
By co-debtor.	The plaintiff's claim is	rs. for a contribution in respect of
	a joint debt of the plaintiff and the defendant, paid by the plaintiff.	
Money paid for calls.	The plaintiff's claim is	rs. for money paid for calls upon
	shares, against which the defendant was bound to indemnify the plaintiff.	
Money payable under award.	The plaintiff's claim is	rs. for money payable under an
	award.	
Life-policy.	The plaintiff's claim is	rs. upon a policy of insurance upon
	the life of X. Y., deceased.	
Money-bond.	The plaintiff's claim is	rs. upon a bond to secure payment
	of rs. and interest.	
Foreign judgment.	The plaintiff's claim is	rs. upon a judgment of the
	Court in [the Empire of Russia].	
Bills of exchange, &c.	The plaintiff's claim is	rs. upon a cheque drawn by the
	defendant.	
	The plaintiff's claim is	rs. upon a bill of exchange accepted
	[or drawn, or indorsed] by the defendant.	
	The plaintiff's claim is	rs. upon a promissory note made [or
	indorsed] by the defendant.	
	The plaintiff's claim is	rs. against the defendant, A. B., as
	acceptor, and against the defendant, C. D., as drawer [or indorser] of a bill	
	of exchange.	
	The plaintiff's claim is	rs. against the defendant as surety
	for the price of goods sold.	
	The plaintiff's claim is	rs. against the defendant, A. B.,
	as principal, and against the defendant, C. D., as surety, for the price of	
	goods sold [or for arrears of rent, or for money lent, or for money received	
	by the defendant, A. B., as traveller for the plaintiff, or &c.].	
	The plaintiff's claim is	rs. for calls upon shares.

Calls.

Indorsement for Costs, &c.

[Add to the above Forms] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [or, if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.

Damages and other Claims.

Agent, &c.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor [or &c.] of the plaintiff [and rs. for money received as factor, or &c.].

Apprentices.

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [or plaintiff].

Arbitration.

The plaintiff's claim is for damages for non-compliance with the award of X. Y.

Assault, &c.

The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].

By husband and wife.

The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff C.D.

Against husband and wife.

The plaintiff's claim is for damages for assault by the defendant, C. D.

Pleader.

The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.

Bailment.

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].

Pledge.

The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].

Hire.

The plaintiff's claim is for damages for negligence in the custody of furniture [or, a carriage] lent on hire [and for wrongfully, &c.].

Banker.

The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the plaintiff's cheque.

Bill.

The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.

Bond.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a

Carrier.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

The

Charter-party.

The plaintiff's claim is for damages for breach of charter-party of ship [Mary].

Claim for return of goods; damages.

The plaintiff's claim is for return of household furniture, [or, &c.] or their value, and for damages for detaining the same.

Damages for depriving of goods.

The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.

Defamation.

The plaintiff's claim is for damages for libel.

Wrongful distress.

The plaintiff's claim is for damages for slander.

The plaintiff's claim is for damages for improperly distraining

[This Form shall be sufficient whether the distress complained of be wrongful or excessive or irregular.]

Ejectment.

The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the

of in the of

To establish title and recover rents.

The plaintiff's claim is to establish his title to [here describe property] and to recover the rents thereof.

[The two previous Forms may be combined.]

Fishery.

The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.

Fraud.

The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [or a business, or shares, or, &c.].

The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A. B.

Guarantee.

The plaintiff's claim is for damages for breach of a contract of guarantee for A. B.

The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.

The plaintiff's claim is for a loss under a policy upon the ship [Royal Charter], and freight of cargo [or for return of premiums].

[This Form shall be sufficient whether the loss claimed be total or partial.]

Fire insurance.

The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.

The plaintiff's claim is for damages for breach of a contract to insure a house.

The plaintiff's claim is for damages for breach of a contract to keep a house in repair.

The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.

The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

The plaintiff's claim is for damages for injury by the defendant's dog.

The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The

Act XIII of 1855.

Promise of marriage.

Sale of goods.

Sale of goods.

Sale of land.

Trespass on land.

Support.

Way.

Water-course, &c.

Pasture.

Light.

Patent.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.

The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.

The plaintiff's claim is as executor of *A. B.* deceased, for damages for the death of the said *A. B.*, from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.

The plaintiff's claim is for damages for breach of promise of marriage.

The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [*or short delivery, or defective quality, or other breach of contract of sale*] of cotton [*or, &c.*].

The plaintiff's claim is for damages for breach of warranty of a horse.

The plaintiff's claim is for damages for breach of a contract to sell [*or purchase*] land.

The plaintiff's claim is for damages for breach of a contract to let [*or take*] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or purchase*] the lease, with good-will, fixtures, and stock-in-trade of a public-house.

The plaintiff's claim is for damages for breach of covenant for title [*or for quiet enjoyment, or, &c.*] in a conveyance of land.

The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or cutting his grass, or felling his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river*].

The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or house or mine*].

The plaintiff's claim is for damages for wrongfully obstructing a way [*public highway, or private way*].

The plaintiff's claim is for damages for wrongfully diverting [*or obstructing, or polluting, or diverting water from*] a water-course.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or into the plaintiff's mine*].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.

[*This Form shall be sufficient whatever the nature of the right to pasture be.*]

The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

The

Copy-right.

Trade-mark.

Work.

Nuisance.

Injunction.

Mesne profits.

Arrears of rent.

Breach of covenant.

The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.

The plaintiff's claim is for damages for wrongfully using [*or imitating*] the plaintiff's trade-mark.

The plaintiff's claim is for damages for breach of a contract to build a ship [*or to repair a house, &c.*]

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.

The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or, &c.*].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or stables, or, &c.*]

[*Add to indorsement*]:—and for an injunction.

[*Add to indorsement where claim is to land, or to establish title, or both*]:—

and for mesne profits.

and for an account of rents or arrears of rent.

and for breach of covenant for [*repairs*].

1. *Creditor to administer Estate.*

The plaintiff's claim is as a creditor of *X. Y.*, of deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.*, [*and the defendants, E. F. and G. H., as his coheirs at law.*]

2. *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of 18 of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [*and the defendants, E. F. and G. H., as his devisees*].

3. *Partnership.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [*under articles of partnership dated the day of*], and to have the affairs of the partnership wound up.

4. *By Mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the day of made between [*parties*] [*or, by deposit of title-deeds*], and that the mortgage may be enforced by foreclosure or sale.

5. *By Mortgagor.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

6. *Raising*

6. *Raising Portions.*

The plaintiff's claim is that the sum of rs. which by an indenture of settlement, dated , was provided for the portions of the younger children of may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated and made between [parties] carried into execution.

8. *Cancellation, or Rectification.*

The plaintiff's claim is to have a deed dated and made between [parties] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the day of for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*
The plaintiff claims to be executor of the last will dated the day of of C. W. late of deceased, who died on the day of and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [or, as the case may be].
2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased seeking to obtain the revocation of a probate granted in common form.*
The plaintiff claims to be executor of the last will dated the day of of C. D., late of deceased, who died on the day of and to have the probate of a pretended will of the said deceased, dated the day of revoked. This summons is issued against you as the executor of the said pretended will [or, as the case may be].
3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*
The plaintiff claims to be executor of the last will of C. D., late of deceased, who died on the day of dated the day of The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.
4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*
The plaintiff claims to be the brother and sole next-of-kin of C. D. of deceased, who died on the day of intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [or, as the case may be].

Indorsements

Indorsements of character of Parties.

- The plaintiff's claim is as executor [or administrator] of C. D., deceased for, &c.
- The plaintiff's claim is against the defendant, A. B., as executor [or, &c.] of C. D., deceased, for, &c.
- The plaintiff's claim is against the defendant, A. B., as executor of X. Y. deceased, and against the defendant, C. D., in his personal capacity, for, &c.
- The claim of the plaintiff, C. D., is as executrix of X. Y., deceased, and the claim of the plaintiff, A. B., as her husband, for
- The plaintiff's claim is as [or, the plaintiff's claim is against the defendant as] trustee under the will of A. B. [or under the settlement upon the marriage of A. B. and X. Y. his wife].
- The plaintiff's claim is as public officer of the Bank, for
- The plaintiff's claim is against the defendant as public officer of the Bank, for
- The plaintiff's claim is against the defendant, A. B., as principal, and against the defendant, C. D., as public officer, of the Bank, as surety, for
- The plaintiff's claim is against the defendant as heir-at-law of A. B., deceased.
- The plaintiff's claim is against the defendant, C. D., as heir-at-law, and against the defendant, E. F., as devisee, of lands under the will of A. B:

By husband and wife-executrix.

Trustees.

Public officer.

Heir and devisee.

F.—MISCELLANEOUS.
No. 116.
Section 58 of the Code of Civil Procedure.

Court of the _____ of _____ holden at _____																											
REGISTER OF CIVIL SUITS in the Year 18 _____																											
Date of presentation of plaint.	No. of Suit.	Plaintiff.			Defendant.			Claim.		Appearance.		Judgment.		Appeal.		Execution.				Return of Execution.							
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or amount.	Date of Appeal.	Judgment in Appeal.	Date of application.	Date of Order.	Against whom.	For what, and amount if money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than pay. ment of Arrest, and date of every Return.	

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpoenas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.
2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, necessary.

NOTE.—If written statements are required, say—You are (or such a party is, as the case may be) required to put in a written statement by the _____ day of _____

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To _____ dwelling at _____

WHEREAS _____ has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on _____ the _____ day of _____ 18 _____, at _____ o'clock in the forenoon, to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your Pleader _____, which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this _____ day of _____ 18 _____.

L. S.

Judge.

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

NOTICE.—1. Should you apprehend your witnesses if not attend of their own accord, you may have subpoenas from this Court to compel the attendance of any witness, and the production of any document that you have right to call on the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.
2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

To dwelling at
WHEREAS you has instituted a suit against you for are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18, at o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the issues will be settled in your absence; and you will bring with you, or send by your Pleader, which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.
GIVEN under my hand and the seal of the Court this day of 18

L. S.

Judge.

NOTE.—If written statements are required, say—You are (or such a party is, as the case may be) required to put in a written statement by the day of

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To (Name, description and address.)

WHEREAS [here enter the name, description and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the register]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [If not specially

specially required to appear in person, state—" in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions "] to answer the above-named plaintiff. [If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day "]: and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of
The day of 18

WHEREAS it is stated in the plaint that, the defendant in the above suit is at present residing in, but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the day of 18 be forwarded for service on the said defendant, to the Court of with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
The day of 18
A. B. of
against,
C. D. of,

Read proceeding from the forwarding for service on in Civil

Civil No. of that Court.
Read bailiff's endorsement on the back of the process stating that the and proof
of the above having been duly taken by me on the [oath or] affirmation of and
it is ordered that the be returned to the
with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(Title.)

I, the undersigned defendant [or one of the defendants], disclaim all interest under the will of the said E. F. in the plaint named [or, as heir-at-law of, or, as next-of-kin, or one of the next-of-kin, of E. F., deceased, in the said plaint named].

Or, I the undersigned defendant state, that I admit [or deny] [here repeat in the language of the plaint the statements admitted or denied].

Or, I the undersigned defendant submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [or that it appears upon the said plaint that I am jointly liable with one E. F., who is not a party to the suit, and not severally liable as by the plaint appears, or, that it appears by the said plaint that G. H. should have been a joint plaintiff with the said A. B. in the said suit, or as the case may be].

Or, that the plaintiff has conveyed [or assigned] his interest in the said mortgage [or equity of redemption] to one I. J. [or, that I have conveyed or assigned to H. L. by way of further charge for securing the sum of Rs. , the equity of redemption in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [or as the case may be].

(Signed) C. D.,
Defendant.

No. 123.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B.
against
C. D., E. F. and G. H.

Interrogatories on behalf of the above-named A. B. [or C. D.] for the examination of the above-named [E. F. and G. H., or A. B.]

- 1. Did not &c.
 - 2. Has not &c.
- The defendant E. F. is required to answer the interrogatories numbered
The defendant G. H. is required to answer the interrogatories numbered

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B.
against
C. D.

Take notice that the plaintiff [or defendant] requires you to produce for his inspection the following documents referred to in your plaint [or written statement, or affidavit], dated the day of 18

Describe documents required.

X. Y. Pleader for the plaintiff [or the defendant].

To Z.

Pleader for the defendant [or plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(Title.)

To WHEREAS your attendance is required to on behalf of
the in the above cause, you are hereby required [personally to appear before

before this Court] on the day of 18 , at the hour of A.M. [and] to bring with
you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence allowance
for one day, is herewith sent. If you do not comply with this order, you will be subject to the
consequence of non-attendance laid down in the Code of Civil Procedure, Section 170.

Notice—(1.) If you are summoned only to produce a document and not to give evidence, you shall
be deemed to have complied with the summons if you cause such document to be produced in this
Court on the day and hour aforesaid.

(2.) If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to
you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 126.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

Another Form.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.

Defendant.

To (Name, description and address.)

You are hereby summoned to appear in this Court in person on the day of
at in the forenoon, to give evidence on behalf of the plaintiff [or the defendant]
in the above-mentioned suit, and to produce [here describe with convenient certainty any document the
production of which may be required. If the summons be only to give evidence, or if it be only to produce a
document, it must be expressed accordingly] and you are not to depart thence until you have been examined
[or have produced the document] and the Court has risen, or unless you have obtained the leave
of the Court.

The defendant may be sent with a summons

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(Title.)

Claim for
This cause coming on for final disposal before in the presence of ,
on the part of the plaintiff, and on the part of the defendant, it is ordered
that

that the do pay to the the sum of Rs. , with interest
thereon at the rate of per cent. per from to the date of
realization of the said sum, and do also pay to the the costs of this suit as taxed
by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the
date of realization.

Costs of Suit.

Plaintiff.				Defendant.			
	RS.	A.	P.		RS.	A.	P.
1. Stamp for plaint	...	...	...	Stamp for power	...	...	...
2. Do. for power	...	...	...	Do. petition	...	...	...
3. Do. exhibits	...	...	...	Pleader's fee	...	...	...
4. Pleader's fees on Rs.	...	...	...	Subsistence for witnesses	...	...	...
5. Translation fee	...	...	...	Service of process	...	...	...
6. Subsistence for witness for attend- ance.	...	...	...	Translation fee	...	...	...
7. Commissioner's fee	...	...	...	Commissioner's fee	...	...	...
8. Service of process	...	...	...				
9. &c.	...	...	...				
Total	...	...	...	Total	...	...	...

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(Title.)

It is ordered that it be referred to the Registrar [or Taxing Officer] to take an account of what is
due to the plaintiff for principal and interest on the mortgage [or lien] mentioned in the plaint, and to
tax the plaintiff's costs of this suit, and that the Registrar do certify to the Court on the
day of what he shall find to be due for principal and interest as aforesaid, and for costs;
And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal
and interest as aforesaid, together with the said costs, within six months after the Registrar [or Taxing
Officer] shall have presented his certificate; it is ordered that the plaintiff do reconvey the said
mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or
under him, and do deliver up to the Registrar [or Taxing Officer] all deeds and writings in his
custody or power relating thereto, and that upon such reconveyance being made, and deeds and
writings being delivered up, the Registrar [or Taxing Officer] shall pay out to the plaintiff the said
sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying
into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that
the said mortgaged premises [or the premises subject to the said lien] be sold with the approbation of
the Registrar [or Taxing Officer]. And it is ordered that the money to arise by such sale be paid into
Court,

Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(Title.)

Whereas it appears to the Court that the defendant has not paid into Court the sum which was on the day of last certified by the Registrar to be due to the Plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the day of last, and that the period of six months has elapsed since the said day of

It is ordered that the Defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to, the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION SUIT.

Section 213 of the Code of Civil Procedure.

(Title.)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

In creditor's suit—

1. That an account be taken of what is due to the Plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what or of what share, if any, the plaintiff is entitled as next-of-kin [or one of the next-of-kin] of the intestate.

[After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law, and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors, will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the Defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the Defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. E. F. be Receiver in the suit [or proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(a) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death;

(b) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(c) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that G. H. shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that, for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of .

14. And, lastly, it is ordered, that this suit [or matter] stand adjourned for making final decree to the day of .

[Such part only of this order is to be used as is applicable to the particular case.]

No. 131.

FINAL DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the day of pay into Court the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the estate of , the testator, and also the sum of Rs. for interest, at the rate of Rs. per centum per annum, from the day of to the day of amounting together to the sum of Rs. .

2. Let the Registrar [or Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rupees ordered to be paid into Court as aforesaid, as follows:—

(a)—The costs of the plaintiff to Mr. , his attorney [or pleader], and the costs of the defendant to Mr. , his attorney [or pleader].

(b)—And (if any debts are due), with the residue of the said sum of Rs. after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE
FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;
2. And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;
3. And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;
4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of E. F., the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by defendant as follows:—

(a)—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, A. B., and C., his wife, in her right, as the sister and one of the next-of-kin of the said E. F., the intestate.

(b)—Let

(b)—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said E. F., the intestate.

(c)—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to G. H., as the brother and the other next-of-kin of the said E. F., the intestate.

No. 132.

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure.

(Title.)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the Gazette, &c.

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;
2. An account of the debts and liabilities of the said partnership;
3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of

No. 133.

PARTNERSHIP. FINAL DECREE.

Section 215 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No.

A. B. of

against

C. D. of

It is ordered that the fund now in Court, amounting to the sum of Rs. be applied as follows:—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate amounting in the whole to Rs.

2. In

2. In payment of the costs of all parties in this suit, amounting to Rs.
[These costs must be ascertained before the decree is drawn up.]

3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in Court to the defendant as his share of the partnership-assets.

[Or, And that the remainder of the said sum of Rs. be paid to the said plaintiff [or defendant] in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.

And that the defendant [or plaintiff] do on or before the day of pay to the plaintiff [or defendant] the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due].

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 224 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18 .
A. B. of
against
C. D. of

CERTIFIED that no [or partial, as the case may be, and if partial, state to what extent] satisfaction of the decree of this Court, in Civil Suit No. of 18 a copy of which is hereunto attached, has been obtained by execution within the jurisdiction of this Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

To WHEREAS
has made application to this Court for execution of decree in Civil Suit No. 18 , this is to give you notice that you are to appear before this Court on the day

day of 18 , either in person or by a Pleader of this Court, or agent duly authorized and instructed to show cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS was ordered, by decree of this Court, passed on the day of 18 , in Suit No. of 18 , to pay to the plaintiff the sum of Rs. as noted in the margin ; and whereas the said sum of Rs. has not been paid.

DECREE.			
Principal			
Interest			
Costs			
Costs of decree			
Interest thereon			
Total of attachment			
Total			

THESE ARE TO COMMAND YOU to attach the moveable property of the said

as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs. , the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 137.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(Title.)

To THE BAILIFF OF THE COURT.

WHEREAS _____, in the occupancy of _____, the plaintiff in this suit : you are hereby directed to put the said _____ in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS _____ has failed to satisfy a decree passed against _____ on the _____ day of _____ 18 _____ in favor of _____ for Rs. _____ it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from _____ the following property in the possession of the said _____ that is to say, _____ to which the defendant is entitled, subject to any claim of the said _____, and the said _____ is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

L. S.

Judge.

No. 139.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS _____ has failed to satisfy a decree passed against _____ on the _____ day of _____ 18 _____, in Civil Suit No. _____ of 18 _____, in favour of _____ for Rs. _____ : it is ordered that the defendant be, and _____ hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to be due from you to the said defendant, namely, _____, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

L. S.

Judge.

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c. Section 268 of the Code of Civil Procedure.

(Title.)

To

Defendant, and to _____, Manager of _____ Company

WHEREAS _____ has failed to satisfy a decree passed against _____ on the _____ day of _____ 18 _____, in Civil Suit No. _____ of 18 _____ in favour of _____ for Rs. _____ it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of _____ shares in the aforesaid Company, namely, _____, or from receiving payment of any dividends thereof; and you _____ the

the Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

To (Title.) Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 486 of the Code of Civil Procedure.

IN THE COURT OF AT Civil Suit No. of 18 .
A. B. of against C. D. of

To SIE,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment of certain money now in your hands (here state how the money is supposed to be in the hands of

of the person addressed, on what account, &c.), I request that you will hold the said money subject to the further order of this Court.

have the honor to be,
Sir,
Your most obedient Servant,

L. S.

Judge.

Dated the day of 18 .

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &c., OF MONEY, &c., IN THE HANDS OF A THIRD PARTY.

Section 277 of the Code of Civil Procedure.

IN THE COURT OF AT Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of against C. D. of

To THE BAILIFF OF THE COURT AND TO has been attached in execution

WHEREAS the following property of 18 , passed on the day of 18 , in favour of for Rs. : it is ordered that the property so attached, consisting of Rs. in money, and Rs. in Bank Notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you the said , to , and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said , and the remainder, if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 144.

No. 144.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
Miscellaneous No. of 18
A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Civil Suit No. of 18 this is to give you notice to appear before this Court on , the day of 18 , either in person or by a Pleader of the Court duly instructed, to support your claim as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
Miscellaneous No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving days' previous notice, by affixing the same in this Court-house, and after making due proclamation,* the property attached under a Warrant from this Court, dated the of 18 in execution

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered.

of

of a decree in favour of in Suit No. of
18 or so much of the said property as shall realize the sum of Rs. , being the
of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of
18 with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 300 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

To

WHEREAS has been the purchaser at a sale by auction in execution of the decree in the above suit of now in your possession, you are hereby prohibited from delivering possession of the said to any persons except the said

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 147.

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

To

and to

WHEREAS
has become the purchaser at a public sale in execution of the decree in the above suit of
certain debt due from you
to you, that is to say, it is ordered that
you be and you are hereby prohibited from receiving, and you
from making payment of, the said debt to any person or persons except the said

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

To

and

Manager of Company.

WHEREAS
has become the purchaser at a public sale in execution
of the decree in the above suit of certain shares in the above Company, that is to say of
standing in the name of you it is ordered that you
be, and you are hereby, prohibited from making any transfer of
the said shares to any person except the said
the purchaser aforesaid, or from receiving any dividends thereon: and you

, Manager

, Manager of the said Company, from permitting any such transfer or
making any such payment to any person except the said
the purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 149.

ORDER CONFIRMING SALE OF LAND, &c.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

WHEREAS the
following land (or immoveable property) was on the day of 18 sold
by the Bailiff of this Court in execution of the decree in this suit; and whereas thirty days have
elapsed and no application has been made (or objection allowed) to the said sale, it is ordered that
the said sale be, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 150.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

This is to certify that
sale by public auction on the day of 18 has been declared the purchaser at a
of the

the
in execution of decree in this suit, and that the said sale has been duly confirmed by the Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS

has become the certified purchaser of

at a sale in execution of decree in Civil Regular No.

of 18 , and whereas such land is in the possession of you
are hereby ordered to put the said , the certified purchaser, as
aforesaid, into possession of the said

and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of .

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES BEING GIVEN.

Section 326 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Collector of

SIR,

IN answer to your communication No. , dated ,
the sale in execution of decree in this suit of

representing that
land, lying
within

within your district, paying revenue to Government, is objectionable, I have the honour to inform you
that you are authorized, on security to the amount of Rs. decreed to the
in the above suit, being given to your satisfaction, to make provision for the satisfaction of the said
decree in the manner recommended by you instead of proceeding to a public sale of

I have the honor to be,

Sir,

Your obedient servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.

Section 329 of the Code of Civil Procedure.

(Title.)

To

WHEREAS it appears to the Court that has without
just cause resisted (or obstructed) the execution of the decree of the Court passed against
on the day of 18 in Civil
Suit, No. of 18 , whereby certain land or immoveable property was adjudged to
be committed to custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

Miscellaneous No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS

Court, in No. of 18 , dated , was adjudged by a decree of the
18 , to
pay

Principal	...	...		
Interest	...	...		
Costs	...	...		
Execution	...	...		
Total	...	...		

pay to the plaintiff the sum of Rs. 22
noted in the margin, and whereas the said sum of Rs.
has not been paid to the said plaintiff in satisfaction
of the said decree, these are to command you to arrest the said
defendant, and unless the said defendant shall pay to you the
said sum of Rs. , together with Rs.
for the costs of executing this process, to bring the said
defendant before the Court with all convenient speed. You
are further commanded to return this warrant on or before the
day of 18 , with an endorsement certifying the day and manner in which it has
been executed, or the reason why it has not been executed.
GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 155.

NOTICE OF PAYMENT INTO COURT.

Section 377 of the Code of Civil Procedure.

IN THE 187 .
B. No. A. B. v. C. D.

TAKE notice that the defendant has paid into Court Rs. and says that that sum is enough
to satisfy the plaintiff's claim [or the plaintiff's claim for, &c.].
To Mr. X. Z.,
the Plaintiff's Pleader,
Z.,
Defendant's Pleader.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

To WHEREAS the evidence of is required by the in the
above suit ; and whereas you are requested to take the examination
on

on interrogatories [or vivà voce] of such witnesses and you
are hereby appointed a Commissioner for that purpose, and you are further requested to make return
of such examination so soon as it may be taken [process to require the attendance of the witness will
be issued by this Court on your application.]*

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

Sections 392 and 395 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

To
WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for
should be
issued ; you are hereby appointed Commissioner for the purpose of
[process to compel the attendance before you of any witnesses, or for the
production of any documents which you may desire to examine or inspect, will be issued by this Court
on your application.]*

A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff
in the above suit, has proved to the satisfaction of the Court that there is probable cause for believing
that the defendant is about to these are to
command you to take the said into custody,
and to bring before the Court, in order that he may show cause why he should not
furnish security to the amount of rupees for personal appearance before the Court,
until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction
of any decree that may be passed against in the suit.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

To

WHEREAS , plaintiff in this suit,
has made application to the Court that security be taken for the appearance of the defendant
to answer any judgment that may be passed against in
the suit; and whereas the Court has called upon the defendant to furnish
such

such security, or to offer a sufficient deposit in lieu of security, which
to do ; it is ordered that the said defendant
until the decision of the suit ; or if judgment be given against
of the decree.

has failed
be committed to custody
until the execution

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR
FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

has proved to the

WHEREAS
satisfaction of the Court that the defendant in the above suit
these are to command you to call upon the said defendant
on or before the day of either to furnish
security for the sum of rupees to produce and place at the disposal of this
Court when required
or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may
be passed against or to appear and show cause why should
not furnish security ; and you are further ordered to attach the said and keep the same
under safe and secure custody until the further order of the Court, and in what manner you shall have
executed this warrant make appear to the Court immediately after the execution hereof, and have you
here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 161.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS, the plaintiff in this suit, has applied to the Court to call upon, the defendant, to furnish security to fulfil any decree that may be passed against in the suit, and whereas the Court has called upon the said to furnish such security which has failed to do; these are to command you to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to this Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To

Defendant.

It is ordered that you the said be, and you are hereby, prohibited and restrained until the further order of this Court from receiving from the following property in the possession of the said that is to say to which the defendant is entitled, subject to any claim of the said and the said is

is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To

Defendant.

It is ordered that you the said be, and you are hereby prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To

It is ordered that the defendant be, and he is hereby, prohibited and restrained, until the further order of this Court, from receiving from the

the [money now in hands belonging to the said defendant or debts, as the case may be, describing them] and that the said be and hereby prohibited and restrained, until the further order of this Court, from making payment of the said [money, &c.], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18

A. B. of

against

C. D. of

To

Defendant

and to

Manager of

Company.

It is ordered that and the defendant, be hereby prohibited and restrained, until the further order of the Court, from making any transfer of shares being in the aforesaid Company, or from receiving payment of any dividends thereof, and you Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 166.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

Upon motion made unto this Court by Pleader of (or Counsel for) the plaintiff A. B., and upon reading the petition of the said plaintiff in this matter filed (this day) [or the plaintiff filed in this cause on the day of , or the written statement of the said plaintiff filed on the day of] and upon hearing the evidence of and in support thereof, [if after notice and defendant not appearing, add, and also the evidence of as to service of notice of this motion upon the defendant C. D.] This Court doth order that an injunction be awarded to restrain the defendant C. D., his servants, workmen and agents from pulling down, or suffering to be pulled down the house in the plaint in the said suit of the plaintiff mentioned [or in the written statement or petition of the plaintiff and evidence at the hearing of this motion mentioned] being No. 9, Oilmonger's Street, Hindupur, in the Taluq of and from selling the materials whereof the said house is composed, until the hearing of this cause or until the further order of this Court.

Dated this day of 187

Civil Judge.

[Where the injunction is sought to restrain the negotiation of a bill, note or security, the ordering part of the order may run thus:—] to restrain the defendants and from parting with out of the custody of them or any of them, or endorsing, assigning or negotiating the promissory note in question, dated on or about the &c., mentioned in the plaintiff's plaint [or petition] and the evidence heard at this motion, until the hearing of this cause, or until the further order of this Court.

[In copyright cases] to restrain the defendant, C. D., his servants, agents, or workmen from printing, publishing, or vending a book, called or any part thereof, until the, &c.

[Where part only of a book is to be restrained] to restrain the defendant, C. D., his servants, agents, or workmen, from printing, publishing, selling, or otherwise disposing of such parts of the book in the plaint [or petition and evidence, &c.] mentioned to have been published by the defendant as hereinafter specified, namely, that part of the said book which is entitled and also that part which is entitled both inclusive) until the, &c.

[In patent cases] to restrain the defendant, C. D., his agents, servants and workmen, from making or vending any perforated bricks (or, as the case may be) upon the principle of the inventions in the plaintiff's plaint [or petition, &c., or written statement, &c.] mentioned, belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the patents in the plaintiff's plaint (or, as the case may be) mentioned, and from counterfeiting, imitating or resembling the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.

[In cases of trade-marks] to restrain the defendant, C. D., his servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking (or, as the case may be) described as or purporting to be blacking manufactured by the plaintiff,

plaintiff, *A. B.*, in bottles having affixed thereto such labels as in the plaintiff's plaint [*or* petition, &c.] mentioned, or any other labels so contrived or expressed as, by colorable imitation or otherwise, to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, *A. B.*, and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff, *A. B.*, until the, &c.

[*To restrain a partner from in any way interfering in the business*] to restrain the defendant, *C. D.*, his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security, in the name of the partnership firm of *B. & D.*, and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership firm of *B. & D.*, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, &c.

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF AT

A. B. of
against
C. D. of

TAKE notice that I, *A. B.*, intend to apply at the sitting of the Court at aforesaid, on the day of for an injunction to restrain *C. D.* from further prosecuting a suit which he has commenced against me in to recover damages for the breach of the contract for the specific performance of which this suit was commenced [*or* to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding up of which the suit was commenced, *or* from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce, *or*, as the case may be].

Dated this day of 18 .
To *C. D.* *A. B.*

[*N.B.—Where the injunction is to be applied for against a party whose name and address does not appear upon any proceeding already filed in the suit, it must be stated in full to enable the proper officer to serve the notice.*]

No. 168.

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To WHEREAS has been attached in execution of a decree passed in the above suit on the day of 18 , in favor of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under Section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

You are required to render a due and proper account of your receipts and disbursements in respect of the said property on . You will be entitled to remuneration at the rate of per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of
A. B. of
against
C. D. of

Know all men by these presents, that we, *A. B.* of, &c., and *C. D.* of, &c., and *E. F.* of, &c., are jointly and severally bound to *G. H.*, Registrar of the Court of in Rs. , to be paid to the said *G. H.* or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this day of 18 .
And whereas a plaint has been filed in this Court by *A. B.* against *C. D.* for the purpose of (*here insert object of suit*).

And

And whereas the said *A. B.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property, and to get in the outstanding moveable property of *C. D.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *A. B.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said *C. D.* [or, as may be] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

A. B.

C. D.

Signed and delivered by the above-bounden in the presence of

NOTE.—If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(Title.)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby appointed accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the day of 18, or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on our application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(Title.)

UPON reading a petition of the plaintiff, filed this day, and on the consent of for the defendant, and upon hearing for the plaintiff and for

for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of

, who is to make

his award in writing and submit the same to this Court, together with all proceedings, depositions, and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

Section 532 of the Code of Civil Procedure.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.

Defendant.

To

[Here enter the defendant's name, description and address.]

WHEREAS [here enter the plaintiff's name, description and address] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for Rs. principal and interest [or Rs. balance of principal and interest] due to him as the payee [or indorsee] of a bill of exchange [or hundi or promissory note], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [here state the sum claimed] and the sum of Rs. for costs.

Leave

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF AT

, Plaintiff, v.

, Defendant.

To

TAKE notice that has applied to this Court for a review of its judgment passed on the day of 18 in the above case. The day of 18 is fixed for you to show cause why the Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF AT

A. B. of
against
C. D. of

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, A. B. [or C. D.], have hitherto employed as my pleader G. H. of in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is J. K. of

A. B. [or C. D.]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE, OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [place of office] from ten till four, except on [here insert the day on which the office will be closed], when the office will be closed at one.

WHITLEY STOKES,

Secretary to the Govt. of India.

(Republished by order of His Grace the Governor in Council.)

D. F. CARMICHAEL,

Offg. Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 13th February 1878, and is hereby promulgated for general information:—

ACT No. VI of 1878.

An Act to amend the Law relating to Treasure-Trove.

WHEREAS it is expedient to amend the law relating to treasure-trove; It is hereby enacted as follows:—

Preamble.

Preliminary.

1. This Act may be called "The Indian Treasure-Trove Act, 1878:"
It extends to the whole of British India;
And it shall come into force at once.

2. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Interpretation-clause.

3. In this Act—

"treasure" means anything of any value hidden in the soil, or in anything affixed thereto:

"Collector" means (1) any revenue officer in independent charge of a district, and (2) any officer appointed by the Local Government to perform the functions of a Collector under this Act.

When

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act, be deemed to be the owner of such land or thing.

Procedure on finding Treasure.

4. Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing—

- (a) of the nature and amount or approximate value of such treasure;
- (b) of the place in which it was found;
- (c) of the date of the finding;

and either deposit the treasure in the nearest Government Treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may from time to time require.

5. On receiving a notice under Section four, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

- (a) he shall publish a notification in such manner as the Local Government from time to time prescribes in this behalf, to the effect that, on a certain date (*mentioning it*), certain treasure (*mentioning its nature, amount, and approximate value*) was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such notification;
- (b) when the place in which the treasure appears to the Collector to have been found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under Section five, shall forfeit such right.

7. On the day notified under Section five, the Collector shall cause the treasure to be produced before him, and shall enquire as to and determine—

- (a) the person by whom, the place in which, and the circumstances under which, such treasure was found;
- (b) as far as is possible the person by whom, and the circumstances under which, such treasure was hidden.

8. If, upon an enquiry made under Section seven, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding, by a person appearing as required by the said notification and claiming such treasure, or

or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant to establish his right.

9. If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden; or if, where a period is fixed under Section eight, no suit is instituted as aforesaid within such period to the knowledge of the Collector; or if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Collector may declare the treasure to be ownerless.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue Authority.

Subject to such appeal, every such declaration shall be final and conclusive.

10. When a declaration has been made in respect of any treasure under Section nine, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

11. When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under Section five and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely):—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith:

Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

- (a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be; or
- (b) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed:

Provided

Provided also, that when the Collector has by his declaration under Section nine rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under Section nine by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

15. If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of Section twelve, divide the treasure between him and the finder.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

16. The Collector may, at any time after making a declaration under Section nine, and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

17. No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

18. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

19. The Local Government may, from time to time, make rules consistent with this Act to regulate proceedings hereunder.
Such rules shall, on being published in the local Gazette, have the force of law.

Penalties.

20. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security required by Section four, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty, and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

21. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under Section twenty, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

SCHEDULE.

Number and Date of Enactments.	Title or Subject.	Extent of Repeal.
Bengal Regulation V of 1817.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on the discovery of such treasure.	The whole.
Madras Regulation XI of 1832.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on discovery of such treasure.	The whole.
Act XII of 1838 ..	Hidden Treasure (Madras)	The whole.
Act IV of 1872 ..	An Act for declaring which of certain rules, laws and regulations have the force of law in the Panjab and for other purposes.	So far as regards Bengal Regulation V of 1817.
Act XV of 1874 ..	Laws Local Extent	The second schedule, so far as regards Madras Regulation XI of 1832 and Act XII of 1838. The fourth schedule, so far as regards Ben-

Number and Date of Enactments.	Title or Subject.	Extent of Repeal.
Act XVII of 1875 ..	An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.	So far as regards Bengal Regulation V of 1817.
Act XX of 1875 ..	An Act to declare and amend the law in force in the Central Provinces.	Ditto.
Act XVIII of 1876 ..	Oudh Laws Act	Ditto.

D. FITZPATRICK,
Secy. to the Govt. of India.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 13th February 1878, and is hereby promulgated for general information :—

ACT No. VI of 1878.

An Act to amend the Law relating to Treasure-Trove.

WHEREAS it is expedient to amend the law relating to treasure-trove ; It is hereby enacted as follows :—

Preamble.

Preliminary.

Short title.

1. This Act may be called “The Indian Treasure-Trove Act, 1878 :”

Extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force at once.

Repeal of enactments.

2. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Interpretation-clause.

3. In this Act—

“treasure” means anything of any value hidden in the soil, or in anything affixed thereto :

“Treasure.”

“Collector” means (1) any revenue officer in independent charge of a district, and (2) any officer appointed by the Local Government to perform the functions of a Collector under this Act.

“Collector.”

When

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act, be deemed to be the owner of such land or thing.

Procedure on finding Treasure.

4. Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing—

- (a) of the nature and amount or approximate value of such treasure;
- (b) of the place in which it was found;
- (c) of the date of the finding;

and either deposit the treasure in the nearest Government Treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may from time to time require.

5. On receiving a notice under Section four, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

- (a) he shall publish a notification in such manner as the Local Government from time to time prescribes in this behalf, to the effect that, on a certain date (*mentioning it*), certain treasure (*mentioning its nature, amount, and approximate value*) was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such notification;
- (b) when the place in which the treasure appears to the Collector to have been found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under Section five, shall forfeit such right.

7. On the day notified under Section five, the Collector shall cause the treasure to be produced before him, and shall enquire as to and determine—

- (a) the person by whom, the place in which, and the circumstances under which, such treasure was found; and
- (b) as far as is possible the person by whom, and the circumstances under which, such treasure was hidden.

8. If, upon an enquiry made under Section seven, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding, by a person appearing as required by the said notification and claiming such treasure, or

by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant to establish his right.

9. If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden; or

if, where a period is fixed under Section eight, no suit is instituted as aforesaid within such period to the knowledge of the Collector; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Collector may declare the treasure to be ownerless.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue Authority.

Subject to such appeal, every such declaration shall be final and conclusive.

10. When a declaration has been made in respect of any treasure under Section nine, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

11. When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under Section five and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely):—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith:

Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

- (a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be; or

- (b) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed:

Provided

Provided also, that when the Collector has by his declaration under Section nine rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under Section nine by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

15. If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of Section twelve, divide the treasure between him and the finder.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

16. The Collector may, at any time after making a declaration under Section nine, and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

17. No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

18. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

19. The

19. The Local Government may, from time to time, make rules consistent with this Act to regulate proceedings hereunder.
Such rules shall, on being published in the local Gazette, have the force of law.

Penalties.

20. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security required by Section four, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty, and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

21. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under Section twenty, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

SCHEDULE.

Number and Date of Enactments.	Title or Subject.	Extent of Repeal.
Bengal Regulation V of 1817.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on the discovery of such treasure.	The whole.
Madras Regulation XI of 1832.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on discovery of such treasure.	The whole.
Act XII of 1838	Hidden Treasure (Madras)	The whole.
Act IV of 1872	An Act for declaring which of certain rules, laws and regulations have the force of law in the Panjab and for other purposes.	So far as regards Bengal Regulation V of 1817.
Act XV of 1874	Laws Local Extent	The second schedule, so far as regards Madras Regulation XI of 1832 and Act XII of 1838. The fourth schedule, so far as regards Bengal Regulation V of 1817.

Number and Date of Enactments.	Title or Subject.	Extent of Repeal.
Act XVII of 1875 ..	An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.	So far as regards Bengal Regulation V of 1817.
Act XX of 1875 ..	An Act to declare and amend the law in force in the Central Provinces.	Ditto.
Act XVIII of 1876 ..	Oudh Laws Act	Ditto.

D. FITZPATRICK,
Secy. to the Govt. of India.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 30th September 1879, and is hereby promulgated for general information :—

ACT No. XVI of 1879.

An Act to restrict the transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing ; It is hereby enacted as follows :—

- Preamble.

Short title.

It extends to

Local extent.

Commencement.
1. This Act may be called “The Transport of Salt Act, 1879 :”

the western coast of British India north of Cochin and to the sea within a distance of a marine league from such coast ;

and it shall come into force at once.
- Penalties for carrying salt in certain vessels.

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.
- Exceptions.

3. Nothing in Section two applies to

(a) salt covered by a permit granted under Section twenty-eight or Section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawána granted under Madras Regulation I of 1805, Section eleven, Clause third ;

(b) salt covered by a pass granted by any officer whom the Governor of Bombay in Council may appoint in this behalf ;

(c) such

(c) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor of Bombay in Council may, from time to time, exempt from the operation of Section two.

4. When any officer empowered by the Governor of Bombay in Council, whether by name or office, to act under this section has reason to believe from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by Section two, he may require such vessel to be brought to, and thereupon may

- (a) enter and search the same ;
- (b) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof ;
- (c) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India ; and
- (d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under Section two.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under Section four, and any person obstructing any such officer in the performance of his duty, may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by Section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel, and furniture.

Confiscations under this section may be adjudged by the Chief Customs Authority, or by such other officer as the local Government may, from time to time, appoint in this behalf.

Whenever any Customs Officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such inquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under Section two or Section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under Section four or Section five, he may be brought.

8. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

D. FITZPATRICK,

*Secy. to the Govt. of India,
Legislative Department.*

(Republished by order of His Grace the Governor in Council.)

C. G. MASTER,

Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th January 1880, and is hereby promulgated for general information:—

ACT No. I OF 1880.

An Act to confer certain Powers on Religious Societies.

WHEREAS it is expedient to simplify the manner in which certain bodies of persons associated for the purpose of maintaining religious worship may hold property acquired for such purpose, and to provide for the dissolution of such bodies and the adjustment of their affairs and for the decision of certain questions relating to such bodies; It is hereby enacted as follows:—

1. This Act may be called “The Religious Societies Act, 1880.”

It shall come into force at once; and

shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindús, Muhammadans or Buddhists, or to any persons whom the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any body of persons associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any property,

and such property has been or hereafter shall be vested in trustees in trust for such body,

and it becomes necessary to appoint a new trustee in the place of or in addition to any such trustee or any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in the manner so prescribed,

such

such new trustee may be appointed in such manner as may be agreed upon by such body, or by a majority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

Appointment under Section 2 to be recorded in a memorandum under the hand of the chairman of the meeting.

3. Every appointment of new trustees under Section two shall be made to appear by some memorandum under the hand of the chairman for the time being of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a document of which the registration is required by the Indian Registration Act, 1877, Section seventeen.

4. When any new trustees have been appointed, whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding any thing contained in any such instrument, become vested, without any conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or, if there are no old continuing trustees, in such new trustees wholly, upon the same trusts, and with and subject to the same powers and provisions, as it was vested in the old trustees.

Saving of existing modes of appointment and conveyance.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property, which may hereafter be made as heretofore was by law required.

6. Any number not less than three-fifths of the members of any such body as aforesaid may at a meeting convened for the purpose determine that such body 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 such body, its claims and liabilities, according to the rules of such body applicable thereto, if any, and if not, then as such body at such meeting may determine:

Provided that, in the event of any dispute arising among the members of such body, 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 such body is situate; and the Court shall make such order in the matter as it deems fit.

7. If upon the dissolution of any such body there remains, 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 such body or any of them, but shall be given to some other body of persons associated for the purpose of maintaining religious worship or some other religious or charitable purpose to be determined by the votes of not less than three-fifths of the members present at a meeting convened in this behalf, or in default thereof by such Court as last aforesaid.

Saving of certain provisions of instruments.

8. Nothing in Sections six and seven shall be deemed to affect any provision contained in any instrument for the dissolution of such body, or for the payment or distribution of such property.

9. When

9. When any question arises, either in connection with the matters hereinbefore referred to, or otherwise, as to whether any person is a member of any such body as aforesaid, or as to the validity of any appointment under this Act, any person interested in such question may apply by petition to the High Court for its opinion on such question. A copy of such petition shall be served upon, and the hearing thereof may be attended by, such other persons interested in the question as the Court thinks fit.

Any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

The costs of every application under this section shall be in the discretion of the Court.

THE SCHEDULE.

(See Section 3.)

Memorandum of the appointment of new trustees of the (describe the church, chapel or other buildings and property) situate at a meeting duly convened and held for that purpose (in the vestry of the said) on the day of 18 , A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of (here insert the same).

Names and descriptions of all the trustees in whom the said (chapel and property) now become legally vested.

First.—Old continuing trustees :— (here insert the same).

Second.—New trustees now chosen and appointed :— (here insert the same).

Dated this day of 18 .
Signed by the said A. B. as Chairman of the said Meeting, at and in the presence of the said Meeting on the day and year aforesaid in the presence of—

C. D.
E. F.

A. B.,
Chairman of the said Meeting.

D. FITZPATRICK,
Secy. to the Govt. of India.

(Republished by order of His Grace the Governor in Council.)

C. G. MASTER,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 3rd November 1880, and is hereby promulgated for general information:—

ACT No. XIV OF 1880.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a Census of British India, and it is expedient to provide for certain matters in connection with the taking of such Census; It is hereby enacted as follows:—

Preamble.

Short title.

Commencement.

2. This section

Local extent.

The remaining sections extend only to such parts of British India as the local Government may, from time to time, by notification in the official Gazette, direct.

3. The local Government may appoint any person by name or in virtue of his office to take, or aid in or supervise the taking of, the Census within any specified local area.

Appointment of Census-officers.

Persons so appointed shall be called "Census-officers."

The local Government may delegate to such authority as it thinks fit the power conferred by this section.

4. A declaration in writing, signed by any officer authorized by the local Government in this behalf, that any person has been duly appointed a Census-officer for any local area shall be conclusive proof of such appointment.

Proof of appointment of Census-officer.

Census-officers to be deemed public servants.

All Census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Duties of Census-officers how to be discharged in certain cases.

5. (a) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(b) every

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, work-house, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper or manager of any saráí, hotel, boarding-house, lodging-house or club, and

(e) every occupant of immoveable property having at the time of taking the Census not less than fifty persons employed under him on or in such property,

shall, if so required by the Magistrate of the District, or, in the towns of Calcutta, Madras and Bombay, by such officer as the local Government may appoint in this behalf, perform such of the duties of a Census-officer in relation to the persons who at the time of taking the Census are under his command or charge, or inmates of his house or present on or in such property, as such Magistrate or officer may, by an order written, printed or lithographed, direct.

All the provisions of this Act relating to Census-officers shall apply (so far as they are applicable) to all such persons while performing such duties; and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under Section 187 of the Indian Penal Code.

6. The Magistrate of the District may, by an order written, printed or lithographed, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents, and upon all members of pancháyats appointed in his district under Bengal Act No. VI of 1870 (to provide for the appointment, dismissal and maintenance of Village Chaukidárs) to give such assistance as he needs towards the taking of a Census of the persons who are at the time of taking the Census on the lands of such owners, occupiers, holders, farmers and assignees, within the limits of such fisheries or in the villages for which such pancháyats are appointed, as the case may be.

Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees, or their agents, and the members of such pancháyats, shall be bound to obey it.

7. Every Census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the local Government and published in the official Gazette, he may be directed to ask.

8. Every person of whom any question is asked under Section seven shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household; and that no woman shall be bound to state the name of her husband or deceased husband.

9. Every person occupying any house, enclosure, vessel or other place shall allow the Census-officers such access thereto as they may require for the purposes of the Census, and as, having regard to the customs of the country, may be reasonable.

10. Subject

10. Subject to such orders as the local Government may issue in this behalf, any Census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of being filled up by the occupier of such house or of any specified part thereof with such particulars as the local Government may direct regarding the persons present in such house or part at the time of taking the Census.

When any such schedule has been so left, the occupier of the house or part to which it relates shall fill up the same to the best of his knowledge or belief, so far as regards the persons present in such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the Census-officer or to such person as he may direct.

Any occupier of a dwelling-house or part thereof who knowingly and without sufficient cause fails to comply with the provisions of this section, or makes any false return hereunder, shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

11. Any Census-officer who, knowingly and without sufficient cause, disobeys the instructions published by the local Government under Section seven, puts any offensive or improper question, or makes any false return, shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

12. The local Government may, by notification in the official Gazette,

(a) declare before what classes of Magistrates prosecutions under this Act, or for neglecting or refusing to do anything required by this Act to be done, may be instituted; and

(b) direct that no such prosecution shall be instituted except with its previous sanction, or with the previous sanction of some officer authorized by it in this behalf.

Unless and until a notification is published under clause (a) of this section, all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere, before the Magistrate of the District.

13. Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872, no entry in any book, register or record made by a Census-officer in the discharge of his duty as such officer shall be admissible as evidence in any civil proceeding or any proceeding under Chapter forty or Chapter forty-one of the Code of Criminal Procedure, or Chapter eighteen of the Presidency Magistrates Act, 1877.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.

(Republished by order of His Grace the Governor in Council.)

R. DAVIDSON,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th March 1882, and is hereby promulgated for general information :—

ACT No. XII of 1882.

THE INDIAN SALT ACT, 1882.

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An Act for regulating the Duty on Salt, and for other purposes.

WHEREAS it is expedient to amend the law relating to the levy of duty on salt, and to the import and transit of salt, and the manufacture of salt and saltpetre, into, over and in British India ; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.
Commencement.

This section,

Local extent.

1. This Act may be called “The Indian Salt Act, 1882 ;” and it shall come into force at once.
Sections two, seven and eight, and so much of this Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India ;

The rest of this Act extends to the territories for the time being respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Panjáb and the Chief Commissioners of Oudh, the Central Provinces and Ajmír and Mairwára, to the Province of Sindh, to the Districts of the Patna Division, and to British territory under the jurisdiction of the Agent to the Governor-General in Central India ;

and any portion of this Act, other than the portions specified in the second paragraph of this section, may be extended, by order of the Governor-General in Council published in the *Gazette of India*, to any part of British India other than the territories, Province and Districts mentioned in the third paragraph of this section.

Power to extend Act.

2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof ; but all rules made, licenses and passes granted, prices and duties fixed, notifications published and powers conferred under any such enactment and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, fixed, published and conferred hereunder.

Repeal of enactments.

3. In

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—
 the expression “the said territories” means the territories to which the section of this Act, in which that expression occurs, for the time being extends;
 “Assistant Commissioner” means an Assistant Commissioner of Northern India, Salt-revenue, and also includes any person invested by the Local Government with the powers of an Assistant Commissioner under this Act;
 “Salt-revenue officer” means any officer of the Northern India Salt Department, and also includes any person invested by the Local Government with any of the powers of a Salt-revenue officer under this Act;
 “Saltpetre” includes rasí, sajjí and all other substances manufactured from saline earth, and khá-rí-nún and every form of sulphate or carbonate of soda; and
 “manufacture of salt” includes the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence.

4. The powers and duties conferred and imposed by this Act on a Commissioner of a Division may, in places where there is no such Commissioner, be exercised and performed by such officer as the Governor-General in Council may from time to time appoint in this behalf.

5. At the head of the administration of the salt-revenue under this Act there shall be an officer, called the Commissioner of Northern India Salt-revenue, who shall be appointed, and may be suspended or removed, by the Governor-General in Council.

CHAPTER II.

MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

Power of Governor-General in Council—

6. The Governor-General in Council may, from time to time, by rule—

(a) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt, or the manufacture or refining of saltpetre, throughout the whole or any portion of the said territories;

(b) fix fees for the following licenses, not exceeding in the case of each such license the amount hereinafter mentioned:—

	RS.
License to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining	50
License to manufacture saltpetre	2
License to manufacture sulphate of soda (khá-rí-nún) by solar heat in evaporating pans	10
License to manufacture sulphate of soda (khá-rí-nún) by artificial heat	2
License to manufacture other saline substances	2

(c) determine

(c) determine the manner, time and place in and at which, and the persons by whom, any duty imposed hereunder shall be collected in the said territories;

(d) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Government, or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;

(e) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area.

CHAPTER III.

DUTY AND PRICE OF SALT.

Power of Governor-General in Council—

7. The Governor-General in Council may from time to time by rule consistent with this Act—

(a) impose a duty, not exceeding three rupees per maund of 82½ pounds Avoirdupois, on salt manufactured in, or imported by land into, any part of British India;

(b) reduce or remit any duty so imposed, and reimpose any duty so reduced or remitted;

(c) fix the minimum price at which salt excavated, manufactured or sold by or on behalf of the Government of India shall be sold.

In calculating the amount of duty payable under this section, fractions of quarter maunds may be reckoned as quarter maunds.

8. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf, the Local Government may from time to time, by notification in the local official Gazette, fix the minimum price at which salt excavated, manufactured or sold by or on behalf of such Local Government shall be sold.

CHAPTER IV.

OFFENCES AGAINST THE SALT-REVENUE.

Penalties.

9. Whoever commits any of the following offences (namely):—

(a) does anything in contravention of this Act or of any rule made hereunder;
 (b) evades payment of any duty or charge payable under this Act or any such rule; or

(c) attempts to commit, or abets within the meaning of the Indian Penal Code the commission of, any of the offences mentioned in Clauses (a) and (b) of this section,

B

shall

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both ;

and the convicting Magistrate, on the application of the Assistant Commissioner or Salt-revenue officer, may declare to be confiscated all works, materials and implements constructed or prepared for the purpose of manufacturing or refining salt or saltpetre contrary to the provisions of this Act or any such rule.

10. Any person convicted of an offence under Section nine, after having been previously convicted of an offence under that section or Section eleven of the Inland Customs Act, 1875, or under any enactment repealed by that Act, shall be punished with imprisonment for a term which may extend to six months, in addition to the punishment which may be inflicted for a first offence under Section nine ;

and every such person shall, upon every subsequent conviction of an offence under Section nine, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

11. A charge of an offence under Section nine, or under Section eleven of the Inland Customs Act, 1875, shall not be entertained except on the complaint of an Assistant Commissioner or other Salt-revenue officer not inferior in rank to a Sub-Inspector, and no such complaint shall be admitted unless it is preferred within six months after the commission of the offence to which it refers. All such offences shall be tried by a Magistrate exercising powers not less than those of a Magistrate of the second class.

12. All salt or saltpetre in respect of which any offence mentioned in Section nine has been committed, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable to confiscation.

When the article seized exceeds five sers in weight, the Commissioner of the Division in which the seizure takes place may, if satisfied on the report of any Salt-revenue officer, or on such inquiry as he thinks fit to make, that such offence has been committed, declare such article to be confiscated or impose such lesser penalty in lieu of confiscation as to him may seem fit.

If the article seized does not exceed five sers in weight, the Assistant Commissioner shall possess the same powers in regard to its disposal as by this section are conferred on the Commissioner of the Division in regard to quantities exceeding five sers, and may also confiscate any vessel, package or covering in which such article is contained.

Whenever such Commissioner declares under this section any article to be confiscated, he may also declare to be confiscated any vessel, package or covering in which such article is contained, and any animal or conveyance used in carrying it.

13. The Governor-General in Council may, from time to time, by rule, direct that any Salt-revenue officer, not inferior in rank to an Assistant Inspector, if satisfied in such manner as such rule may prescribe that any offence mentioned in Section nine has been committed in respect of any dutiable salt, shall, instead of making a complaint to a Magistrate, or instituting proceedings with a view to confiscation, impose as a penalty an additional duty

duty on such salt not exceeding the duty leviable thereon under Chapter III of this Act.

The imposition of every such penalty shall be at once reported, if the salt, in respect of which an offence has been committed, exceeds five sers in weight, to the Commissioner of the Division in which such penalty is imposed, and, if such salt does not exceed five sers in weight, to the Assistant Commissioner, and shall require the sanction of the Commissioner or Assistant Commissioner, as the case may be, to whom it is so reported.

14. Any zamíndár or other proprietor of land, and any agent of a zamíndár or proprietor of land, who wilfully connives at any offence mentioned in Section nine, shall for every such offence be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

CHAPTER V.

POWERS OF STOPPAGE, SEARCH, SEIZURE AND ARREST.

15. Any Salt-revenue officer empowered in this behalf by the Local Government may at any time enter and search any place in which any article is manufactured or refined under a license granted under this Act or any rule made hereunder.

16. Any Salt-revenue officer may stop and detain any person whom he has reason to believe to be liable to punishment under this Act ; and may seize any salt or saltpetre in respect of which there is reason to believe that any offence mentioned in Section nine has been committed, or that any duty is payable, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals or conveyances used in carrying it.

17. Any Salt-revenue officer may arrest any person whom he has reason to believe to have committed any such offence as last aforesaid.

18. Whenever any Salt-revenue officer, not inferior in rank to a Sub-Inspector, has reason to believe that salt or saltpetre is being unlawfully manufactured, refined or stored in an unlicensed place,

such officer shall first record in writing (so far as may be practicable) (a) the name, residence, and calling of the informant (if any) ; (b) the locality and description of the house, boat or place where the officer believes that the salt or saltpetre is being so manufactured, refined or stored ; (c) the name of the person by or for whom the salt or saltpetre is so manufactured, refined or stored ; and (d) the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured, refined or stored ; and may then summon in writing the officer in charge of the Police-station within whose jurisdiction the house, boat or place to be searched is situate to attend him ; and

and may then, after sunrise and before sunset (but always in the presence of an officer of Police not inferior in rank to a head constable), enter and search any house, boat or place in which there is reason to believe that salt or saltpetre is being so manufactured, refined or stored ;

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 salt and saltpetre so manufactured, refined or stored, and all materials used in the manufacture or refinement of such salt or saltpetre ;

and may also detain and search and, if he thinks proper, arrest the occupier of the said house, boat or place, together with all persons concerned in the manufacture, refinement, or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed for such cases in the Code of Criminal Procedure.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat or place is situate to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

19. Any officer in charge of a Police-station who, on application in writing made by a Salt-revenue officer to attend for any of the purposes specified in Section eighteen, refuses or fails within a reasonable time so to attend or to depute a subordinate officer, not inferior in rank to a head constable, so to attend, shall for every such offence be punished with fine which may extend to five hundred rupees.

20. Whenever a Salt-revenue officer under the rank of Assistant Commissioner arrests under this Act any person, or seizes any article as liable to confiscation under this Act, or enters any house, boat or place for the purpose of searching for any such article, he shall (unless generally empowered by the Assistant Commissioner to send the person arrested to the Magistrate) within forty-eight hours next after such arrest, seizure or entry make a full report of all the particulars of such arrest, seizure or entry to his official superior for the information of the Assistant Commissioner.

Every officer making any arrest under this Act, or his official superior, shall, if generally empowered in this behalf by the Assistant Commissioner, either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the discharge of such person.

Every officer of Police attending any search made under Section eighteen shall report the same to his official superior.

21. Whenever

21. Whenever the Assistant Commissioner is informed of the seizure of any article exceeding five sers in weight as liable to confiscation under this Act, he shall, with all convenient despatch, report the circumstances of the case to the Commissioner of the Division in which such seizure is made, who may thereupon proceed under Section twelve.

If the article seized does not exceed five sers in weight, such Assistant Commissioner may dispose of the case himself under the said section.

22. Any article in respect of which a penalty is imposed under Section thirteen may be detained pending the receipt of the order of the Commissioner of the Division or the Assistant Commissioner, as the case may be, on the report required by the same section :

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the Salt-revenue officer detaining the same, such article shall be at once released.

When an article is so detained it shall on the receipt of the said order be dealt with in accordance with the rules made in this behalf hereunder.

When an article has been released under the second paragraph of this section, and the Commissioner of the Division or Assistant Commissioner, as the case may be, reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Assistant Commissioner within six months, to be computed (where the order has been made by the Commissioner of the Division) from the day on which the Assistant Commissioner has received such order, and (where the order has been made by the Assistant Commissioner) from the date of such order.

When any penalty the amount of which has been deposited under the second clause of this section is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months,

the amount so in deposit, or the sum so refundable, shall be forfeited to Her Majesty, unless the Commissioner of Northern India Salt-revenue otherwise directs.

23. Whenever the Assistant Commissioner is informed of the arrest of any person, he shall (unless such person has been dealt with under the penultimate paragraph of Section twenty) either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the immediate discharge of such person.

24. All officers of Police, and all officers of Government engaged in the collection of land-revenue, are hereby empowered and required to assist the Salt-revenue officers in the execution of this Act.

25. Any Salt-revenue officer who—

- (a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place ;
- (b) vexatiously and unnecessarily detains, searches or arrests any person ;
- (c) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act ;
- (d) commits as such officer any other act to the injury of any person, when such officer has not reason to believe that such act is required for the execution of his duty,

shall for every such offence be punishable, by a Magistrate exercising powers not less than those of a Magistrate of the second class, with fine which may extend to five hundred rupees.

Any person wilfully and maliciously giving false information and so causing a search to be made under this Act shall be punishable, by a Magistrate exercising the same powers, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both.

26. The Governor-General in Council may from time to time make rules consistent which this Act to regulate the seizure, disposal and destruction of things liable to be seized under this Act.

Such rules may, among other matters, provide—

- (a) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale;
- (b) that when anything is seized and an order for its release is subsequently passed, and the owner does not, within a period to be fixed by such rules, appear to claim such thing and tender the duty, penalties and charges (if any) due in respect thereof, it may be sold by public auction, and such duty, penalties and charges defrayed from the proceeds of the sale;
- (c) that the surplus-proceeds of a sale under Clause (a) or Clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period, not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

CHAPTER VI.

MISCELLANEOUS.

27. The Governor-General in Council may, from time to time, by rule, prohibit absolutely, or subject to conditions, the importation of salt into, or the transit of salt over, the said territories or any part thereof.

Except in the case of a prohibition under this section, nothing in this Act shall affect the transit of salt into or from any of the said territories, from or into any other part of British India.

28. In addition to the rules which the Governor-General in Council is hereinbefore empowered to make, he may from time to time make rules consistent with this Act to regulate the following matters, namely:—

- (a) the persons by whom, and the time, place and manner at or in which, anything to be done under this Act shall be done;
 - (b) the cases in which and the officers to whom, and the conditions subject to which, orders given by Salt-revenue officers under this Act shall be appealable;
 - (c) the fee to be charged on account of any license, pass, certificate, dākhilā, rawāna or other such document issued under this Act;
- and generally to carry out the provisions herein contained.

29. All

29. All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon have the force of law.

30. Subject to the provisions herein contained, and to any rules for the time being in force made by the Governor-General in Council, the Local Government or the Commissioner of Northern India Salt-revenue may invest any person with the powers of an Assistant Commissioner under this Act, or with all or any of the powers hereinbefore conferred on Salt-revenue officers.

31. For Section eleven of the Madras Salt Excise Act, 1871, the following shall be substituted:—

“ 11. The excise-duty on salt manufactured in any district, or part of a district, to which this Act may be extended, shall be paid under such orders as the Board of Revenue from time to time makes in this behalf; but no such duty shall be leviable until the salt is about to be removed from the place of storage, and no salt shall be so 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.”

SCHEDULE.

(See Section 2.)

ENACTMENTS REPEALED.

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
VIII of 1875 II of 1876	The Inland Customs Act, 1875 The Burma Land and Revenue Act, 1876	The whole. Section 39, Clause (b), and in Clause (c) of the same section the words and letter “under Clause (b).”
XVIII of 1877	The Salt Act, 1877	The whole.

REGULATION.

III of 1877	The Ajmir Laws Regulation, 1877	Sections 36 and 37.
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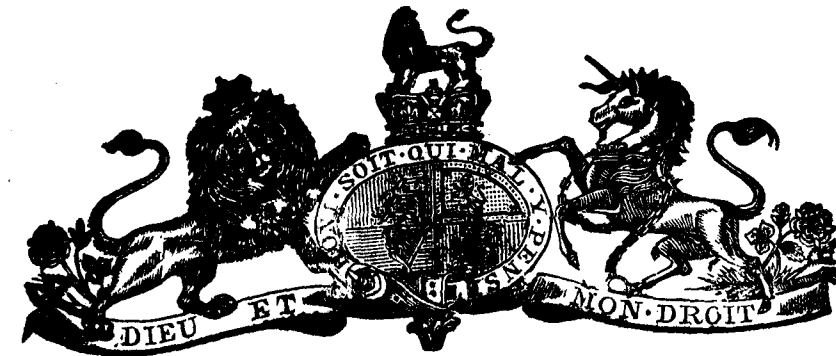
ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
VII of 1864	The Salt Act, 1864	Section nine.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

R. DAVIDSON,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th March 1882, and is hereby promulgated for general information :—

ACT No. XV of 1882.

THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

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An Act to consolidate and amend the law relating to the Courts of Small Causes established in the Presidency Towns.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts of Small Causes established in the towns of Calcutta, Madras and Bombay ; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Small Cause Courts Act, 1882;" and it shall come into force on the first day of July 1882.

Commencement.

But nothing herein contained shall affect the provisions of the Army Act, 1881, Section 151, or the rights or liabilities of any person under any decree passed before that day.

2. On and from the said day the enactments specified in the first schedule hereto
Repeal of enactments. annexed shall be repealed to the extent mentioned therein.

But all Courts constituted, appointments made and securities given under any of the said enactments shall, so far as may be, be deemed to have been respectively constituted, made and given under this Act.

All references to any enactment hereby repealed made in Acts passed prior to the said day shall be read, so far as may be practicable, as if made
References in previous Acts. to this Act or the corresponding provisions hereof.

3. In Act No. XXIII of 1850 (*for securing the Land-revenue of Calcutta*), Section
Amendment of Acts. 3, for the word and figures "Act VII, 1847," the words and figures "The Presidency Small Cause Courts Act, 1882, Chapter VIII," shall be substituted; the words "as provided by the said Act" shall be repealed; and for each of the expressions "a Commissioner of the Court for recovery of small debts referred to in the said Act," and "the said Commissioners" the words "the Judges of the Court of Small Causes at Calcutta," shall be substituted.

In the Code of Civil Procedure, Section 8, after the word and figures "Chapter XXXIX" the words and figures "and by the Presidency Small Cause Courts Act, 1882," shall be inserted.

4. In this Act, "the Small Cause Court" means the Court of Small Causes
"Small Cause Court" defined. constituted under this Act in the town of Calcutta, Madras or Bombay, as the case may be.

CHAPTER II.

CONSTITUTION AND OFFICERS OF THE COURT.

5. There shall be in each of the towns of Calcutta, Madras and Bombay a Court,
Courts of Small Causes established. to be called the Court of Small Causes of Calcutta, Madras or Bombay, as the case may be.

6. The Small Cause Court shall be deemed to be a Court subject to the superintendence of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be, within the meaning of the Letters Patent, respectively dated the 28th day of December 1865, for such High Courts and within the meaning of the Code of Civil Procedure; and the High Court shall have, in respect of the Small Cause Court, the same powers as it has under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, Section 15, in respect of Courts subject to its appellate jurisdiction.

7. Subject to the control of the Governor-General in Council, the Local Government may, from time to time, by notification in the official Gazette, appoint a person to be Chief Judge, and so many other persons as it thinks fit to be Judges, of the Small Cause Court:
Appointment, suspension and removal of Judges. Provided that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts.

The Local Government may, by a like notification, suspend and, with the previous sanction of the Governor-General in Council, remove any Judge so appointed.

All barristers who when this Act comes into force are, or are acting as, Judges of the Small Cause Court shall, for the purposes of this section, be deemed to be advocates of a High Court.

8. The Chief Judge shall be the first of the Judges in rank
Rank and precedence of Judges. and precedence.

The other Judges shall have rank and precedence as the Local Government may, from time to time, direct.

9. Except as otherwise provided by this or any other law for the time being in force, the Small Cause Court may, with the previous sanction of
Power to make rules. the High Court, make rules to provide, in such manner as it thinks fit, for all matters not specially provided for by this Act, and for the exercise by one or more of its Judges of any powers conferred on the Small Cause Court by this Act or by any other law for the time being in force.

10. Subject to such rules, the Chief Judge may, from time to time, make such
Chief Judge to distribute business of Court. arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.

11. Save as hereinafter otherwise provided, when two or more of the Judges sitting together differ on any question, the opinion of the
Procedure in case of difference of opinion. majority shall prevail; and if the Court is equally divided, the Chief Judge, if he is one of the Judges so differing, or in his absence the Judge first in rank and precedence of the Judges so differing, shall have the casting voice.

12. The Small Cause Court shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.
Seal to be used.

13. The Local Government may, from time to time, appoint an officer to be called the Registrar of the Court, and to be the chief ministerial officer
Appointment of Registrar and ministerial officers. of the Court;

and the Chief Judge may, from time to time, subject to the control of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

The Registrar and other officers so appointed shall exercise such powers, and discharge such duties, of a ministerial nature as the Chief Judge may, from time to time, by rule, direct.
Powers and duties of such officers.

The Chief Judge may suspend or remove any Registrar or other officers so appointed; but the removal of any Registrar or officer drawing a monthly salary of one hundred rupees or upwards shall be subject to the orders of the Local Government.

14. The Local Government may invest the Registrar with the powers of a Judge under this Act for the trial of suits in which the amount or value of the subject-matter does not exceed twenty rupees. And, subject to the orders of the Chief Judge, any Judge of the Small Cause Court may, whenever he thinks fit, transfer from his own file to the file of the Registrar any suit which the latter is competent to try.
Registrar may be invested with powers of a Judge in suits not exceeding twenty rupees.

15. No Judge or other officer appointed under this Act shall, during his continuance as such Judge or officer, either by himself or as a partner of any other person, practise or act, either directly or indirectly, as an advocate, attorney, vakil or other legal practitioner, or be concerned, either on his own account or for any other person, or as the partner of any other person, in any trade or profession.

Any such Judge or officer so practising, acting or concerned shall be deemed to have committed an offence under Section 168 of the Indian Penal Code.

Nothing herein contained shall be deemed to prohibit any such Judge or officer from being a member of any company incorporated or registered under Royal Charter, Letters Patent, Act of Parliament or Act of any British Indian legislature.

CHAPTER III.

LAW ADMINISTERED BY THE COURT.

16. All questions, other than questions relating to procedure or practice, which arise in suits or other proceedings under this Act in the Small Cause Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

CHAPTER IV.

JURISDICTION IN RESPECT OF SUITS.

17. The local limits of the jurisdiction of each of the Small Cause Courts shall be the local limits for the time being of the ordinary original civil jurisdiction of the High Court.

18. Subject to the exceptions in Section nineteen, the Small Cause Court shall have jurisdiction to try all suits of a civil nature—

when the amount or value of the subject-matter does not exceed two thousand rupees: and

(a) the cause of action has arisen, either wholly or in part, within the local limits of the jurisdiction of the Small Cause Court, and the leave of the Court has, for reasons to be recorded by it in writing, been given before the institution of the suit; or

(b) all the defendants, at the time of the institution of the suit, actually and voluntarily reside, or carry on business, or personally work for gain, within such local limits; or

(c) any of the defendants, at the time of the institution of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, within such local limits, and either the leave of the Court has been given before the institution of the suit, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution.

Explanation I.—When in any suit the sum claimed is, by a set-off admitted by both parties, reduced to a balance not exceeding two thousand rupees, the Small Cause Court shall have jurisdiction to try such suit.

Explanation

Explanation II.—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 reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

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

Suits in which Court has no jurisdiction.

19. The Small Cause Court shall have no jurisdiction in—

- (a) suits concerning the assessment or collection of the revenue;
- (b) suits concerning any act ordered or done by the Governor-General in Council or the Local Government, or by the Governor-General or a Governor, or by any Member of the Council of the Governor-General or of the Governor of Madras or Bombay, in his official capacity, or by any person by order of the Governor-General in Council or the Local Government;
- (c) suits concerning any act ordered or done by any Judge or judicial officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court or any such Judge or judicial officer;
- (d) suits for the recovery of immoveable property;
- (e) suits for the partition of immoveable property;
- (f) suits for the foreclosure or redemption of a mortgage of immoveable property;
- (g) suits for the determination of any other right to or interest in immoveable property;
- (h) suits for the specific performance or rescission of contracts;
- (i) suits to obtain an injunction;
- (j) suits for the cancellation or rectification of instruments;
- (k) suits to enforce a trust;
- (l) suits for a general average loss and suits on policies of insurance on sea-going vessels;
- (m) suits for compensation in respect of collisions on the high seas;
- (n) suits for compensation for the infringement of a patent, copyright or trade-mark;
- (o) suits for a dissolution of partnership or for an account of partnership-transactions;
- (p) suits for an account of property and its due administration under the decree of the Court;
- (q) suits for compensation for libel, slander, malicious prosecution, adultery or breach of promise of marriage;
- (r) suits for the restitution of conjugal rights, for the recovery of a wife, or for a divorce;
- (s) suits for declaratory decrees;
- (t) suits for possession of a hereditary office;
- (u) suits against Sovereign Princes or Ruling Chiefs, or against Ambassadors or Envoys of Foreign States;
- (v) suits on any judgment of a High Court;
- (w) suits the cognizance whereof by the Small Cause Court is barred by any law for the time being in force.

c

20. When

20. When the parties to a suit which, if the amount or value of the subject-matter thereof did not exceed two thousand rupees, would be cognizable by the Small Cause Court, have entered into an agreement in writing that the Small Cause Court shall have jurisdiction to try such suit, the Court shall have jurisdiction to try the same, although the amount or value of the subject-matter thereof may exceed two thousand rupees.

Every such agreement shall be filed in the Small Cause Court, and, when so filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by its decision in such suit.

21. All suits to which an officer of the Small Cause Court is, as such, a party, except suits in respect of property taken in execution of its process, or the proceeds or value thereof, may be instituted in the High Court at the election of the plaintiff as if this Act had not been passed.

22. If any suit cognizable by the Small Cause Court, other than a suit to which Section twenty-one applies, is instituted in the High Court, and if in such suit the plaintiff obtains, in the case of a suit founded on contract, a decree for any matter of an amount or value less than two thousand rupees, and in the case of any other suit a decree for any matter of an amount or value of less than three hundred rupees, no costs shall be allowed to the plaintiff;

and if in any such suit the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client.

The foregoing rules shall not apply to any suit in which the Judge who tries the same certifies that it was one fit to be brought in the High Court.

CHAPTER V.

PROCEDURE IN SUITS.

23. The portions of the Code of Civil Procedure specified in the second schedule hereto annexed shall extend, and shall, so far as the same may, in the judgment of the Court, be applicable, be applied, to the Small Cause Court; and the procedure prescribed thereby shall be the procedure followed in the Court in all suits cognizable by it, except where such procedure is inconsistent with the procedure prescribed by any specific provisions of this Act:

Provided that the Court may, subject to the control of the Local Government, from time to time, by notification in the official Gazette, declare that any of the said portions of the said Code shall not extend and be applied to the Small Cause Court, or that any of such portions shall so extend and be applied with such modifications as the Court, subject to the control aforesaid, may think fit.

24. Except in cases of set-off under the Code of Civil Procedure, Section 111, no written statement shall be received unless required by the Court.

25. When

25. When a period of eight days from the decision of a suit has expired without any application for a new trial or re-hearing of such suit having been made, or when any such application has been made within such period and such application has been refused, or the new trial or re-hearing (as the case may be) has ended, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record, shall, unless the document is impounded under Section 143 of the Code of Civil Procedure, be entitled to receive back the same:

Provided that a document may be returned at any time before any of such events on such terms as the Court may direct: Provided also that no document shall be returned which by force of the decree has become void or useless.

On the return of a document which has been admitted in evidence, a receipt shall be given, by the party receiving it, in a receipt-book to be kept for the purpose.

26. In any suit in which the defendant appears and does not admit the claim, and the plaintiff does not obtain a decree for the full amount of his claim, the Small Cause Court may in its discretion order the plaintiff to pay to the defendant, by way of satisfaction for his trouble and attendance, such sum as it thinks fit.

When any claim preferred, or objection made, under Section 278 of the Code of Civil Procedure is disallowed, the Small Cause Court may in its discretion order the person preferring or making such claim or objection to pay to the decree-holder, or to the judgment-debtor, or to both, by way of satisfaction as aforesaid, such sum or sums as it thinks fit.

And when any claim or objection is allowed the Court may award such compensation by way of damages to the claimant or objector as it thinks fit; and the order of the Court awarding or refusing such compensation shall bar any suit in respect of injury caused by the attachment.

Any order under this section may, in default of payment of the amount payable thereunder, be enforced by the person in whose favor it is made against the person against whom it is made as if it were a decree of the Court.

27. Whenever the Small Cause Court issues a warrant for the arrest of a judgment-debtor or the attachment of his property, the decree-holder, or some other person on his behalf, shall accompany the officer of the Court entrusted with the execution of such warrant, and shall point out to such officer the judgment-debtor or the property to be attached, as the case may be.

28. When the judgment-debtor under any decree of the Small Cause Court is a tenant of immoveable property, anything attached to such property, and which he might before the termination of his tenancy lawfully remove without the permission of his landlord, shall, for the purpose of the execution of such decree, be deemed to be moveable property, and may, if sold in such execution, be severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgment-debtor would have been bound to do to it if he had removed such thing.

29. Whenever

29. Whenever any judgment-debtor, who has been arrested or whose property has been seized in execution of a decree of the Small Cause Court, offers security to the satisfaction of such Court for payment of the amount which he has been ordered to pay and the costs, the Court may order him to be discharged or the property to be released.

30. Whenever it appears to the Small Cause Court that any judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or, if such Court has ordered the same to be paid in instalments, the amount of any instalment thereof, it may, from time to time, for such time and upon such terms as it thinks fit, suspend the execution of such decree and discharge the debtor, or make such order as it thinks fit.

31. If the judgment-debtor under any decree of the Small Cause Court has not, within the local limits of its jurisdiction, moveable property sufficient to satisfy the decree, the Court may, on the application of the decree-holder, send the decree for execution—

- (a) in the case of execution against immoveable property situate within such local limits—to the High Court;
- (b) in all other cases—to any Civil Court within the local limits of whose jurisdiction such judgment-debtor, or any moveable or immoveable property of such judgment-debtor, may be found.

The procedure prescribed by the Code of Civil Procedure for the execution of decrees by Courts other than those which made them shall be the procedure followed in such cases.

32. Notwithstanding anything contained in the Code of Civil Procedure as applied by this Act, any minor may institute a suit for any sum of money, not exceeding five hundred rupees, which may be due to him under Section 70 of the Indian Contract Act, 1872, for wages or piece-work or for work as a servant, in the same manner as if he were of full age.

33. Any non-judicial or quasi-judicial act which the Code of Civil Procedure as applied by this Act requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under Section 394 of that Code as so applied, may be done by the Registrar of the Small Cause Court or by such other officer of that Court as that Court may, from time to time, appoint in this behalf.

The High Court may, from time to time, by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

34. The suits cognizable by the Registrar under Section fourteen shall be heard and determined by him in like manner in all respects as a Judge of the Court might hear and determine the same:

Provided that, subject to the control of the Chief Judge, any Judge of the Court may, whenever he thinks fit, transfer to his own file any suit on the file of the Registrar.

35. The Registrar may receive applications for the execution of decrees of any value passed by the Court, and may commit and discharge judgment-debtors, and make any order in respect thereof which a Judge of the Court might make under this Act.

36. Every

Decrees and orders of Registrar to be subject to new trial as if made by a Judge.

36. Every decree and order made by the Registrar in any suit or proceeding shall be subject to the same provisions in regard to new trial as if made by a Judge of the Court.

CHAPTER VI.

NEW TRIALS AND RE-HEARING.

37. Save as is herein specially provided, every decree and order of the Small Cause Court in a suit shall be final and conclusive; but the Court may, on application of either party, made within eight days from the date of the decree or order in any suit (not being a decree passed under Section 522 of the Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the mean time, stay the proceedings.

38. Any party may, within eight days after the judgment in any suit in the Small Cause Court in which the amount or value of the subject-matter exceeds one thousand rupees, apply to the High Court for an order that such suit may be re-heard in the High Court.

Such application shall be supported by affidavits, and, in case the applicant has appeared in the Small Cause Court by advocate, vakil, attorney or pleader, by a certificate from such advocate, vakil, attorney or pleader that in his opinion there are good grounds for re-hearing the suit, and if, on hearing such application, the High Court is of opinion that there has been a miscarriage or failure of justice, or that there are other good grounds for such re-hearing, the Court shall make an order *ex parte*, on such terms as it thinks fit, for such re-hearing, and fix a day for the same, whereof notice shall be given to the opposite party.

The rules contained in Sections 545, 546 and 547 of the Code of Civil Procedure, relating to staying and executing decrees under appeal, shall apply in the case of applications under this section as if such applications were appeals from the decisions of the Small Cause Court.

39. On the day fixed under Section thirty-eight or on any other day to which the re-hearing may be adjourned, the High Court, or some Judge thereof, shall proceed to re-hear and determine the case as if the same were a suit brought in such High Court in its ordinary original civil jurisdiction, in which the plaintiff in the Small Cause Court was plaintiff, and the defendant in such Court was defendant, and in which written statements had not been ordered to be filed; and, except as herein otherwise provided, all the practice and procedure of such High Court in respect of suits brought in its ordinary original civil jurisdiction shall be followed in suits re-heard under this section: Provided that there shall not be any appeal from any judgment, decree or order under this section.

40. Every decree or order made by any High Court upon any such re-hearing may either be executed by such High Court in the same manner as other decrees or orders of such Court or may, in the discretion of the High Court, be remitted to the Small Cause Court for execution.

CHAPTER VII.

RECOVERY OF POSSESSION OF IMMOVEABLE PROPERTY.

41. When any person has had possession of any immoveable property situate within the local limits of the Small Cause Court's jurisdiction and of which the annual value at a rack-rent does not exceed one thousand rupees, as the tenant, or by permission, of another person, or of some person through whom such other person claims, and such tenancy or permission has determined or been withdrawn, and such tenant or occupier or any person holding under or by assignment from him (hereinafter called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person, such other person (hereinafter called the applicant) may apply to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

42. The summons shall be served on the occupant in the manner provided by the Code of Civil Procedure for the service of a summons on a defendant.

43. If the occupant does not appear at the time appointed and show cause to the contrary, the applicant shall, if the Small Cause Court is satisfied that he is entitled to apply under Section forty-one, be entitled to an order addressed to a bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court thinks fit to name in such order.

Explanation.—If the occupant proves that the tenancy was created or permission granted by virtue of a title which determined previous to the date of the application, he shall be deemed to have shown cause within the meaning of this section.

44. Any such order shall justify the bailiff to whom it is addressed in entering after the hour of six in the morning and before the hour of six in the afternoon upon the property named therein, with such assistants as he thinks necessary, and giving possession of such property to the applicant: and no suit or prosecution shall be maintainable against any Judge or officer of the Small Cause Court by whom any such order as aforesaid was issued, or against any bailiff or other person by whom the same was executed, or by whom any such summons as aforesaid was served, for the issue, execution or service of any such order or summons, by reason only that the applicant was not entitled to the possession of the property.

45. When the applicant, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser; but any person aggrieved may bring a suit for the recovery of compensation for any damage which he has sustained by reason of such error, defect or irregularity:

when no such damage is proved, the suit shall be dismissed; and when such damage is proved but the amount of the compensation assessed by the Court does not exceed

exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

46. Nothing herein contained shall be deemed to protect any applicant obtaining possession of any property under this chapter from a suit by any person deeming himself aggrieved thereby, when such applicant was not at the time of applying for such order as aforesaid entitled to the possession of such property.

And when the applicant was not, at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.

47. Whenever on an application being made under Section forty-one the occupant binds himself, with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit next hereinafter mentioned, to institute without delay a suit in the High Court against the applicant for compensation for trespass and to pay all the costs of such suit in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of.

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under Section forty-three.

Nothing contained in Section twenty-two shall apply to suits under this section.

48. In all proceedings under this chapter, the Small Cause Court shall, as far as may be and except as herein otherwise provided, follow the procedure prescribed for a Court of first instance by the Code of Civil Procedure.

49. Recovery of the possession of any immoveable property under this chapter shall be no bar to the institution of a suit in the High Court for trying the title thereto.

CHAPTER VIII.

DISTRESSES.

50. This chapter extends to every place within the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay. But nothing contained in this chapter applies—

(a) to any rent due to Government;

(b) to any rent which has been due for more than twelve months before the application mentioned in Section fifty-three.

51. The

51. The Judges of the Small Cause Court may appoint four or more persons to be bailiffs and appraisers for the purpose of this chapter, and may from time to time, with the previous sanction of the Local Government, fix such remuneration for the services of such officers as the said Judges think fit, and may suspend or remove them.

52. The persons so appointed shall give security, to be approved by the said Judges, faithfully to discharge the duties of their office, and they shall be deemed to be public servants within the meaning of the Indian Penal Code.

53. Any person claiming to be entitled to arrears of rent of any house or premises to which this chapter extends, or his duly constituted attorney, may apply to any Judge of the Small Cause Court, or to the Registrar of the Small Cause Court, for such warrant as is herein-after mentioned.

The application shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the third schedule hereto annexed.

54. The Judge or Registrar may thereupon issue a warrant under his hand and seal and returnable within six days, to the effect of the form (marked B), contained in the same schedule addressed to any one of such bailiffs.

The Judge or Registrar may at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

55. Every distress under this chapter shall be made after sunrise and before sunset, and not at any other time.

56. The bailiff directed to make the distress may force open any stable, out-house or other building, and may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this chapter :

Provided that he shall not enter or break open the door of any room appropriated for the zanána or residence of women, which by the usage of the country is considered private.

57. In pursuance of the warrant aforesaid the bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may in the bailiff's judgment be sufficient to cover the amount of the said rent, together with the costs of the said distress :

Provided that the bailiff shall not seize—

- (a) things in actual use ; or
- (b) tools and implements not in use, where there is other moveable property in or upon the house or premises sufficient to cover such amount and costs ; or
- (c) the debtor's necessary wearing apparel ; or
- (d) goods in the custody of the law.

58. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

Impounding distress.

59. On seizing any property under Section fifty-seven the bailiff shall make an inventory of such property, and shall give a notice in writing to the effect of the form (marked C) in the third schedule hereto annexed to the debtor, or to any other person upon his behalf in or upon the said house or premises.

Inventory.

Notice of intended ap-praisement and sale.

Copies of inventory and notice to be filed.

The bailiff shall, as soon as may be, file in the Small Cause Court copies of the said inventory and notice.

60. The debtor, or any other person alleging himself to be the owner of any property seized under this chapter, or the duly constituted attorney of such debtor or other person, may, at any time within five days from such seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just,

and any of the Judges of the said Court may in his discretion give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

61. If any claim is made to, or in respect of, any property seized under this chapter, or in respect of the proceeds or value thereof, by any person not being the debtor, the Registrar of the Small Cause Court, upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Small Cause Court shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit ;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Small Cause Courts in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

62. In any case under Section sixty or Section sixty-one the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit,

and may for that purpose make any inquiry he thinks necessary ; and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

63. In any case under Section sixty or Section sixty-one, if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court, on being satisfied that it is

Power to award compensation to debtor or claimant.

Power to transfer to High Court cases involving more than Rs. 1,000.

is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order passed in the case by a Judge of the Small Cause Court, and may make such order therein as the High Court thinks fit.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

The procedure in cases transferred under this section shall conform, as far as may be, to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction; and every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

64. In default of any order to the contrary by a Judge of the Small Cause Court or by the High Court, any two of the said bailiffs may, at the

Appraisement.

Notice of sale.

expiration of five days from a seizure of property under this chapter, appraise the property so seized, and give the debtor notice in writing to the effect of the form (marked D) in the third schedule hereto annexed.

The bailiffs shall file in the Small Cause Court a copy of every notice given under this section.

65. In default of any such order to the contrary, the distrained property shall be sold on the day mentioned in such notice, and the said bailiffs shall on realizing the proceeds pay over the amount thereof to

Sale.

the Registrar of the Small Cause Court; and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt; and the surplus, if any, shall be returned to the debtor:

Application of proceeds.

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

66. No costs of any distress under this chapter shall be taken or demanded except those mentioned in the part (marked E) of the third

Costs of distresses.

schedule hereto annexed.

The Judges of the Small Cause Court may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs, as appears to the said Judges expedient.

67. The Registrar of the Small Cause Court shall keep a book in which all sums received as costs upon distresses made under this chapter, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered.

Account of costs and proceeds.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this chapter.

Bar of distresses except under this chapter.

68. No distress shall be levied for arrears of rent, except under the provisions of this chapter;

And

And any person, except a bailiff appointed under Section fifty-one, levying or attempting to levy any such distress shall, on conviction before a Presidency Magistrate, be liable to be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings.

Penalty for making illegal distresses.

CHAPTER IX.

REFERENCES TO HIGH COURT.

69. If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under Chapter VII of this Act, and differ in their opinion as to any question of law or usage having the force of law, or the construction of a document, which construction

Reference when compulsory.

may affect the merits,

or if in any suit or any such proceeding, in which the amount or value of the subject-matter exceeds five hundred rupees, any such question arises, and either party so requires,

the Small Cause Court shall draw up a statement of the facts of the case, and refer such statement, under Section 617 of the Code of Civil Procedure, for the opinion of the High Court, and shall either reserve judgment or give judgment contingent upon such opinion.

70. When judgment is given under Section sixty-nine contingent upon the opinion of the High Court, the party against whom such judgment is given shall at once furnish security, to be approved by the Small Cause Court, for the costs of the reference to the High Court and for the amount of such judgment:

Security to be furnished on such reference by party against whom contingent judgment given.

Provided that no security for the amount of such judgment shall be required in any case in which the Judge who tried the case has ordered such amount to be paid into Court, and the same has been paid accordingly.

Unless such security as aforesaid is at once furnished, the party against whom such contingent judgment has been given shall be deemed to have submitted to the same.

If no such security given, party to be deemed to have submitted to judgment.

CHAPTER X.

FEEES AND COSTS.

Institution-fee.

71. A fee not exceeding—

- (a) when the amount or value of the subject-matter does not exceed five hundred rupees—the sum of two annas in the rupee on such amount or value,
- (b) when the amount or value of the subject-matter exceeds five hundred rupees—the sum of sixty-two rupees eight annas, and one anna in the rupee on the excess of such amount or value, over five hundred rupees,

shall be paid on the plaint in every suit, and every application under Section thirty-eight or Section forty-one; and no such plaint or application shall be received until such fee has been paid.

An

An additional fee of ten rupees shall be paid on the filing of every agreement under Section twenty.

72. The fees specified in the third and fourth columns of the fourth schedule hereto annexed shall be paid previous to the issue in any suit or in any proceeding under Chapter VII of this Act of the processer, to which the said columns respectively relate, by the persons on whose behalf such processes are issued, when the amount or value of the subject-matter exceeds the sum specified in the first column, but does not exceed the sum specified in the second column of the said schedule.

73. Whenever any such suit or proceeding is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid.

74. The Small Cause Court may, whenever it thinks fit, receive and register suits instituted, and applications under Section forty-one made, by poor persons, and may issue processes on behalf of such persons, without payment or on a part-payment of the fees mentioned in Sections seventy-one and seventy-two.

75. The Local Government may, from time to time, by notification in the official Gazette, vary the amount of the fees payable under Sections seventy-one and seventy-two:

Provided that the amount of such fees shall in no case exceed the amount prescribed by the said sections.

76. The expense of employing an advocate, vakíl, attorney or other legal practitioner incurred by any party shall not be allowed as costs in any suit or in any proceeding under Chapter VII of this Act, in the Small Cause Court, in which suit or proceeding the amount or value of the subject-matter does not exceed twenty rupees, unless the Court is of opinion that the employment of such practitioner was under the circumstances reasonable.

77. Nothing contained in this chapter shall affect the provisions of Sections 3, 5 and 25 of the Court Fees Act, 1870.

CHAPTER XI.

MISCONDUCT OF INFERIOR MINISTERIAL OFFICERS.

78. The Chief Judge may, by order, fine, in an amount not exceeding one month's salary, any clerk, bailiff or other inferior ministerial officer of the Court who is guilty of misconduct or neglect in the performance of the duties of his office, and such fine may be deducted from his salary.

79. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court who is employed as such in the execution of any order or warrant, loses, by neglect, connivance or omission, an opportunity of executing such order or warrant, he shall be liable, by order of the Chief Judge, on the application of the person injured by such neglect, connivance

connivance or omission, to pay such sum, not exceeding in any case the sum for which the said order or warrant was issued, as, in the opinion of the Chief Judge, represents the amount of the damage sustained by such person thereby.

80. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court is charged with extortion or misconduct while acting under color of its process, or with not duly paying or accounting for any money levied by him under its authority, the Court may inquire into such charge, and may make such order for the repayment or payment of any money so extorted, or of any money so levied as aforesaid, and of damages and costs, by such officer, as it thinks fit.

81. For the purposes of any inquiry under this chapter, the Small Cause Court shall have all the powers of summoning and enforcing the attendance of witnesses and compelling the production of documents which it possesses in suits under this Act.

82. Any order under this chapter for the payment or repayment of money may, in default of payment of the amount payable thereunder, be enforced by the person to whom such amount is payable as if the same were a decree of the Small Cause Court in his favor.

CHAPTER XII.

CONTEMPT OF COURT.

83. When any such offence as is described in Section 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of the Small Cause Court, the Court may cause the offender to be detained in custody; and, at any time before the rising of the Court on the same day, may, if it thinks fit, take cognizance of the offence, and punish the offender with fine which may extend to two hundred rupees, and in default of payment of such fine with imprisonment in the civil jail for a term which may extend to one month unless such fine is sooner paid.

84. In every such case the Court shall record the facts constituting the offence, the statement (if any) made by the offender, and the finding and sentence.

If the offence is under Section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court when interrupted or insulted was sitting, and the nature of the interruption or insult offered.

85. If the Court considers that a person accused of any offence referred to in Section eighty-three and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or if the Court is for any other reason of opinion that the case should not be disposed of under Section eighty-three, the Court, after recording the facts constituting the offence and the statement of the accused as

hereinbefore provided, may forward the case to a Presidency Magistrate, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, may forward him under custody to such Magistrate.

Such Magistrate shall deal with the accused person in the manner provided by the Presidency Magistrates Act, 1877; and may sentence the offender to punishment as provided in the section of the Indian Penal Code under which he is charged.

86. When the Court has, under Section eighty-three or Section eighty-five, punished an offender, or forwarded him to a Presidency Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of the Court, or on apology being made to its satisfaction.

87. If any witness before the Small Cause Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the mean time such person consents to answer such questions or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section eighty-three or Section eighty-five.

88. Any person deeming himself aggrieved by an order under Section eighty-three or Section eighty-seven may appeal to the High Court, and the provisions of the Presidency Magistrates Act, 1877, relating to appeals shall, so far as may be, apply to appeals under this section.

CHAPTER XIII.

MISCELLANEOUS.

89. Notices to produce documents, summonses to witnesses, and all other processes issued in the exercise of any jurisdiction conferred on the Small Cause Court by this Act, except summonses to defendants and writs of execution, may, if the Court by general or special order so directs, be served by such persons as the Court, from time to time, appoints in this behalf.

90. The Small Cause Court shall keep such registers, books and accounts, and submit to the High Court such statements and returns, as may be subject to the approval of the Local Government, be prescribed by the High Court.

91. The

91. The Small Cause Court shall comply with such requisitions as may from time to time be made by the Local Government or High Court for records, returns and statements in such form and manner as such Government or Court, as the case may be, thinks fit.

92. The Small Cause Court shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government. Such list, when it has received such approval, shall be published in the local official Gazette, and the said holidays and vacations shall be observed accordingly.

93. The Governor-General and Members of his Council, the Governors of Fort St. George and Bombay and the Members of their respective Councils, the Lieutenant-Governor of Bengal, and the Chief Justices and Judges of the High Courts established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, shall not be liable to arrest by order of the Small Cause Court.

94. No suit shall lie on any decree of the Small Cause Court.

95. Any person ordered by the Small Cause Court to be imprisoned may be imprisoned in such place as the Local Government, from time to time, appoints in this behalf.

96. If any person against whom any suit is brought for anything purporting to be done by him under this Act has, before the institution of the suit, tendered sufficient amends to the plaintiff, the plaintiff shall not recover.

97. All prosecutions for anything purporting to be done under this Act must be commenced within three months after the offence was committed.

THE FIRST SCHEDULE.

(See Section 2.)

ENACTMENTS REPEALED.

A.—Charters of the Supreme Courts.

Date.		Extent of Repeal.
26th March 1774 ..	Charter of the Supreme Court at Fort William.	Clause 21.
4th December 1800 ..	Charter of the Supreme Court at Madras ..	Clause 47.
8th December 1823 ..	Charter of the Supreme Court at Bombay ..	Clause 59.

B.—Acts

B.—Acts of the Governor-General in Council.

Number and Year.	Subject or Short Title.	Extent of Repeal.
IX of 1850 ..	For the more easy recovery of small debts and demands in Calcutta, Madras and Bombay.	So much as has not been repealed.
XX of 1857 ..	To amend Act IX of 1850 ..	The whole.
XXVI of 1864 ..	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 these Courts.	So much as has not been repealed.
I of 1875 ..	To regulate Distresses for Rents in the Presidency-towns.	The whole.
X of 1877 ..	The Code of Civil Procedure ..	Section eight, para 2.

C.—Act of the Governor of Bombay in Council.

Number and Year.	Subject.	Extent of Repeal.
VI of 1864 ..	For the better regulation of the diet-money of persons imprisoned by the Bombay Court of Small Causes.	So much as has not been repealed.

THE SECOND SCHEDULE.

(See Section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

- PRELIMINARY: Section 2, Interpretation-clause.
- CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except Section 11.
- CHAPTER II.—Of the Place of suing, except Sections 15 to 19 (both inclusive), Section 20, paragraph 4, Sections 22, 23 and 24 and Section 25, paragraphs 2 and 3.
- CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except Section 37, Clause (b), and the last paragraph.
- CHAPTER IV.—Of the Frame of the Suit, except Section 42 and Section 44, Rule a.
- CHAPTER V.—Of the Institution of Suits, except Section 53, Clause (e), Section 55, Section 57, Clause (b), and Sections 58 and 62.
- CHAPTER VI.—Of the Issue and Service of Summons, except, in Section 64, the words “and the copies or concise statements required by Section 58 have been filed,” and Sections 65, 66 and 86.

CHAPTER

- CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.
- CHAPTER VIII.—Of Written Statements and Set-off, except Sections 110, 112 and 113.
- CHAPTER IX.—Of the Examination of the Parties by the Court, except Section 119.
- CHAPTER X.—Sending for Records and Production, &c., of Documents, Sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141 (except the third sentence), 142, 143 and 145.
- CHAPTER XI.—Settlement of Issues, Sections 150 and 151.
- CHAPTER XII.—Disposal of the Suit at the first hearing, except Sections 154 and 155.
- CHAPTER XIII.—Of Adjournments.
- CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except Sections 168, 169, 170 and 175.
- CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except Sections 182 to 191 (both inclusive).
- CHAPTER XVI.—Of Affidavits.
- CHAPTER XVII.—Of Judgment and Decree, except Sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).
- CHAPTER XVIII.—Of Costs.
- CHAPTER XIX.—Of the Execution of Decrees, Section 230, first two clauses, Sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
- CHAPTER XXIII.—Of Payment into Court.
- CHAPTER XXIV.—Of requiring Security for Costs.
- CHAPTER XXV.—Of Commissions, except Section 396.
- CHAPTER XXVII.—Suits by or against Government, or public officers.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except Section 433.
- CHAPTER XXIX.—Suits by and against Corporations and Companies.
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.
- CHAPTER XXXV.—Interlocutory orders, Sections 498, 499, 500 and 502.
- CHAPTER XXXVI.—Appointment of Receivers, Section 503.
- CHAPTER XXXVII.—Reference to Arbitration, except the provisions of Section 522 as to appeals.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of Section 527, Clause b, as relates to immoveable property.
- CHAPTER XLVI.—Of Reference to and Revision by High Court.
- CHAPTER XLIX.—Miscellaneous, Sections 640 to 651 (both inclusive).

THE THIRD SCHEDULE.

FORMS.

A.

[See Section 53.]

In the Small Cause Court for

A. B. (Plaintiff),

versus

C. D. (Defendant).

A. B., of _____, in the town of _____, maketh oath [or affirms] and saith that C. D., of _____, is justly indebted to _____ in the sum of Rs. _____ for arrears of rent of the house and premises No. _____, situated at _____, in the town of _____, due for _____ months, to wit, from _____ to _____, at the rate of Rs. _____ per mensem.

Sworn [or affirmed] before me the _____ day of _____ 188 .

Judge [or Registrar].

B.

[See Section 54.]

In the Small Cause Court for

FORM OF WARRANT.

I hereby direct you to distrain the moveable property of C. D., on the house and premises situate at No. _____, in the town of _____, for the sum of _____ rupees and the costs of the distress, according to the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882. Dated _____ day of _____.

(Signed and sealed).

To E. F., Bailiff and Appraiser.

C.

[See Section 59.]

In the Small Cause Court for

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of _____ rupees, being the amount of _____ months' rent due to A. B. at _____ last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Judges or the Registrar of the Small Cause Court to the contrary, the same will be appraised and sold pursuant to the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882. Dated the _____ day of _____ 188 .

To C. D.

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

D.

D.

[See Section 64].

In the Small Cause Court for

Take notice that we have appraised the moveable property seized on the _____ day of _____, under the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882, of which seizure and property a notice and inventory were duly served upon you [or upon _____ on your behalf, as the case may be] under date the _____, and that the said property will be sold on the _____ [two clear days at least after the date of the notice] at _____ pursuant to the provisions of the said Act. Dated this _____ day of _____ 188 .

(Signed) E. F.,

(") G. H.,

Bailiffs and Appraisers.

To C. D.

E.

[See Section 66.]

In the Small Cause Court for

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

Sums sued for.		Affidavit and Warrant to Distrain.	Order to sell.	Commission.	Total.
Rs.		RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.
1 and under	5	0 4 0	0 8 0	0 8 0	1 4 0
5	10	0 8 0	0 8 0	1 0 0	2 0 0
10	15	0 8 0	0 8 0	1 8 0	2 8 0
15	20	0 8 0	1 0 0	2 0 0	3 8 0
20	25	0 12 0	1 0 0	2 8 0	4 4 0
25	30	1 0 0	1 0 0	3 0 0	5 0 0
30	35	1 0 0	1 0 0	3 8 0	5 8 0
35	40	1 0 0	1 8 0	4 0 0	6 8 0
40	45	1 4 0	2 0 0	4 8 0	7 12 0
45	50	1 8 0	2 0 0	5 0 0	8 8 0
50	60	2 0 0	2 0 0	6 0 0	10 0 0
60	80	2 8 0	2 8 0	6 8 0	11 8 0
80	100	3 0 0	3 0 0	7 0 0	13 0 0
Upwards of	100	3 0 0	3 0 0	7 per centum	..

The above scale includes all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where peons are kept in charge of property distrained, four annas per day must be paid per man.

THE FOURTH SCHEDULE.

(See Section 72.)

FEES FOR SUMMONSES AND OTHER PROCESSES.

When the Amount or Value of the Subject-matter exceeds	But does not exceed	Fee for Summons.	Fee for other Processes.
RS.	RS.	RS. A. P.	RS. A. P.
0	10	0 2 0	0 2 0
10	20	0 4 0	0 4 0
20	50	0 8 0	0 8 0
50	100	1 0 0	1 0 0
100	200	1 4 0	2 0 0
200	300	1 8 0	3 0 0
300	400	1 12 0	4 0 0
400	500	2 0 0	5 0 0
500	600	2 4 0	6 0 0
600	700	2 8 0	7 0 0
700	800	2 12 0	8 0 0
800	900	3 0 0	9 0 0
900	1,000	3 4 0	10 0 0
1,000	1,100	3 6 0	10 8 0
1,100	1,200	3 8 0	11 0 0
1,200	1,300	3 10 0	11 8 0
1,300	1,400	3 12 0	12 0 0
1,400	1,500	3 14 0	12 8 0
1,500	1,600	4 0 0	13 0 0
1,600	1,700	4 2 0	13 8 0
1,700	1,800	4 4 0	14 0 0
1,800	1,900	4 6 0	14 8 0
1,900	2,000	4 8 0	15 0 0

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

R. DAVIDSON,
Chief Secretary.

MADRAS ACT No. I OF 1883.

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

[Received the assent of the Governor on the 22nd December 1882, and of the
Governor-General on the 19th January 1883.]

An Act to remove doubts as to the extent of Madras Act IV of 1864.

WHEREAS doubts have arisen whether Madras Act IV of 1864 can be extended to the Nilgiri District, and it is expedient to remove such doubts;
Preamble. It is hereby enacted as follows:—

1. On the issue of a Notification under the provisions of Section 11 of Madras Act IV of 1864, bringing the said Act into operation in the Nilgiri District, it shall be lawful, anything in the said Act to the contrary notwithstanding, for the Governor in Council to levy a money-cess within the district aforesaid for the purposes indicated and in the manner prescribed by the said Act.

Levy of village cess in
the Nilgiri District under
Madras Act IV of 1864
declared lawful.

ACT No. II of 1883.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 26th January 1883.)

An Act to amend the Elephants Preservation Act, 1879.

WHEREAS it is expedient to amend the Elephants Preservation Act, 1879, in manner
Preamble. hereinafter appearing; It is hereby enacted as follows:—

For Section 4 of the said Act, the following shall be substituted, namely:—

Rights of Government
with respect to certain
elephants and tusks.

“4. Every wild elephant captured, and the tusks of every
wild elephant killed, by any person not licensed under this Act
shall be the property of Government.”

For the
16 4 83

ACT No. V of 1883.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1883.)

THE INDIAN MERCHANT SHIPPING ACT, 1883.

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38. Amendment of Act X of 1841, Sections 2, 15, 17 and 23.

An Act for the further amendment of the law relating to Merchant Shipping.

WHEREAS it is expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates and engineers; and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of Merchant Shipping; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- | | |
|---------------|---|
| Short title. | 1. (1) This Act may be called the Indian Merchant Shipping Act, 1883. |
| Extent. | (2) It extends to the whole of British India; |
| Commencement. | (3) and it shall come into force on the first day of January 1884. |

2. (1) The Indian Merchant Shipping Act, 1875, and Act XIII of 1878 (*an Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*) are hereby repealed.

(2) But all proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made and persons authorized under the said Acts or either of them, shall be deemed to have been respectively commenced, appointed, conferred, held, cancelled or suspended, made and authorized under this Act.

- | | |
|--------------|---|
| Definitions. | 3. In this Act— |
| | “ship” includes every description of vessel used in navigation not propelled by oars; and |
| | “master” means any person (except a pilot or harbour-master) having for the time being control or charge of a ship. |

4. (1) Nothing

4. (1) Nothing in this Act shall affect the powers conferred by Section two hundred and forty of the Merchant Shipping Act, 1854, or by Section eighty of Act I of 1859 (*for the amendment of the law relating to Merchant Shipping*), on Courts having admiralty jurisdiction in India.
- Saving and provision as to powers for removal of master.
- (2) The powers conferred by the last-mentioned enactment may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at that port.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

5. Nothing in this chapter shall apply to any ship belonging to, or in the service of, Her Majesty or of the Government of India, or belonging to any foreign Prince or State.
- Chapter not to apply to certain ships.
6. (1) Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—
- Report of casualties to be made to Local Government.
- (a) any ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or
 - (b) by reason of any casualty happening to or on board of any ship on or near those coasts, loss of life has ensued; or
 - (c) any ship has caused loss or material damage to any other ship on or near those coasts; or
 - (d) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or
 - (e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;
- he shall forthwith report in writing the information to the Local Government.
- (2) In the cases mentioned in clauses (a), (b) and (c), the master, pilot, harbour-master, or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and
- in cases under clause (d), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,
- shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.
- (3) Any person bound to give notice under this section and wilfully failing to give the same shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

7. (1) If in any such case a formal investigation into the facts mentioned in Section six, clause (a), (b), (c), (d) or (e), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.
- Power for Local Government to appoint special Court of Investigation.
- (2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.
8. Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in Section seven.
- Power for other Courts to hold investigations into casualties when so directed.
9. (1) Any Court making an investigation under Section seven or Section eight may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage or casualty as aforesaid.
- Power for Court of Investigation to inquire into charges against masters, mates and engineers.
- (2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.
10. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under Section seven or Section eight, it may transmit a statement of the case to any Court mentioned in Section eight, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.
- Power for Local Government to direct investigation into charges of incompetency or misconduct.
- (2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.
11. For the purpose of an investigation under this chapter into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.
- Person accused to be heard.
12. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—
- Powers of Courts as to evidence and regulation of proceedings.
- (a) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;
 - (b) if

- (b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exercisable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

13. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the Merchant Service; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

14. (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, Section 186.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

15. (1) Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

16. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

- (a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and
(b) that it was made in the presence of the person accused and that he had an opportunity of cross-examining the witness.

(2) A

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

17. (1) The Court shall, in the case of all investigations under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(2) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

18. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the Courts conducting investigations under Sections seven, eight, nine and ten of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

19. (1) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act.

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court, or of its own motion.

20. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

- (a) if, on any investigation made under this Act, the Court reports that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct;

(b) if,

- (b) if, on any investigation made under the Merchant Shipping Acts, 1854 to 1882, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;
- (c) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and
- (d) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force:

Provided that, in any case in which an investigation has been made into a charge against any master, mate or engineer, a certificate shall not be suspended or cancelled under clause (a) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by Section nine or Section ten, as the case may be.

21. Every master, mate or engineer whose certificate is cancelled or suspended under Section twenty shall deliver it to the Shipping Master or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

22. If the Local Government which cancels or suspends, under Section twenty, a certificate of a master, mate or engineer is not the Local Government that granted the same, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

23. Every Local Government cancelling or suspending under Section twenty the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

24. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under Section twenty, or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act.

(3) A

(3) A certificate of competency for a Home-trade ship under Act I of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

Chapter to be read with
Act I of 1859.

25. This chapter shall be read with, and taken as part of, Act I of 1859.

26. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.

27. (1) Every such agreement shall be in a form sanctioned by the Governor-General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;
- (b) the number and description of the crew, specifying how many are engaged as sailors;
- (c) the time at which each seaman is to be on board or to begin work;
- (d) the capacity in which each seaman is to serve;
- (e) the amount of wages which each seaman is to receive;
- (f) a scale of the provisions which are to be furnished to each seaman; and
- (g) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor-General in Council as regulations proper to be adopted, and which the parties agree to adopt.

(2) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

28. (1) In the case of such agreements with lascars or other native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be from time to time fixed and published by the Local Government with the previous sanction of the Governor-General in Council.

(2) Any

(2) Any master entering into an agreement with any lascar or other native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.

29. (1) Whenever it is agreed that the service of any lascar or other native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in Section twenty-seven, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(2) Every such stipulation shall be signed by the owner of the ship, or by the master on his behalf.

(3) In this section the word "seaman" shall include also any Native of British India carried to sea from any port in British India as one of the crew of a ship.

30. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

CHAPTER V.

HEALTH-OFFICERS.

31. In the Indian Ports Act, 1875, after Section eighteen, the following section shall be inserted, that is to say :—

"18-A. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

"A Health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say :—

"(a) with respect to any ship, the powers conferred on a Shipping Master by Act I of 1859, Section 71;

"(b) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship;

"(c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of inquiring into the health and medical condition of the persons on board the ship;

"(d) power to call before him and examine for any such purpose all or any of those persons and to require answers to any inquiries he thinks fit to make;

"(e) power

"(e) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him."

CHAPTER VI.

MISCELLANEOUS.

32. (1) Where any wages or expenses recoverable under Section 213 of the Merchant Shipping Act, 1854, or under Section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor-General in Council may from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, Section 213, provided, those wages or expenses.

(2) Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, Section 57, Clause 7.

33. All suits and proceedings under Section thirty-two shall be instituted and carried on in the name of the Secretary of State for India in Council.

34. In Section 10 of Act I of 1859, for the words "Fees at the following rates shall be paid by all applicants for examination :—

For a certificate as master	...	...	...	ten rupees.
Do. do. as mate	...	...	...	five "

the following shall be substituted, namely :—"Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor-General in Council, fix in this behalf shall be paid by all applicants for examination."

35. To Section 11 of Act I of 1859 the following shall be added, namely :—"Provided that the Local Government may, in any case in which it has reason to believe that such report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character."

36. For the last fifteen words of Section 79 of Act I of 1859, the following shall be substituted, namely :—"punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both."

37. Sections 9 to 16 (both inclusive) of Act I of 1859 shall not apply to ships registered under Act X of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

38. In

38. In Sections 2, 15, 17 and 23 of the said Act X of 1841, for the words "on information in any Court of Her Majesty or the East India Company by the Advocates-General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted, namely:—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

Amendment of Act X of 1841, Secs. 2, 15, 17 and 23.

ACT No. XVI OF 1883.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 4th October 1883.)

An Act for the protection of Inventions exhibited in the Exhibitions of India.

WHEREAS it is expedient that such protection as is hereinafter mentioned should be afforded to the inventors of new manufactures who are desirous of exhibiting them at Exhibitions to be held in India; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Protection of Inventions Act, 1883;

Commencement.

(2) And it shall come into force at once.

Act to be read with Act XV of 1859.

2. It shall be read with, and taken as part of, Act XV of 1859 (for granting exclusive privileges to inventors).

3. If, within six months from the time of the opening of an Exhibition, a person, being the inventor and exhibitor of any manufacture exhibited at that Exhibition, petitions the Governor-General in Council, under Act XV of 1859, for leave to file a specification of his invention, the circumstance that the invention has at any time after the opening of the Exhibition been publicly used or made publicly known shall not prevent the invention being deemed to have been at the time of presenting the petition a new invention for the purposes of the said Act.

[PRICE, 6 PIES.]

4. In

4. In this Act, "Exhibition" means the International Exhibition to be held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor-General in Council may, on the application of any persons desirous of holding the Exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor-General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 18th December 1883, and is hereby promulgated for general information :—

ACT No. XXI of 1883.

THE INDIAN EMIGRATION ACT, 1883.

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SCHEDULE III.—PROBABLE LENGTHS OF VOYAGE UNDER THIS ACT.

An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- Short title and extent. 1883. 1. (1) This Act may be called the Indian Emigration Act, 1883.
- (2) It extends to the whole of British India.
- Exemption of Government vessels. 2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India.
- Commencement. 3. Except as to the power to make rules, this Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.
- Repeal of enactments. 4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*) shall be repealed.
- Saving for proceedings under repealed enactments. 5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act.
- Definitions. 6. In this Act, unless there is something repugnant in the subject or context,—
- (1) “Emigrate” and “emigration” denote the departure by sea out of British India of a Native of India under an agreement to labor for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements: Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition:
- (2) “Emigrant” means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act as an emigrant, and includes any dependent of an emigrant:
- (3) “Dependent” means any of the following persons accompanying any emigrant, namely:—
- (a) any woman who has not entered into an agreement to emigrate under this Act;
- (b) any child in whose name and on whose behalf any such agreement has not been entered into; and
- (c) any aged or incapacitated relative or friend:

(4) “Magistrate”

(4) “Magistrate” means, in the Presidency towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act:

(5) “Registering Officer” means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act:

(6) “Recruiter” includes a head recruiter or other person who collects or receives emigrants recruited by other persons:

(7) “Vessel” includes anything made for the conveyance by water of human beings or property:

(8) “Emigrant-vessel” means a vessel the master of which is licensed under this Act to carry emigrants therein: and

(9) “Master” means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful.

(2) The Governor-General in Council may at any time, by a like notification, revoke any notification issued under this section.

(3) The Local Government may, from time to time, by notification in the official Gazette, fix for the purposes of this Act the limits of any port from which emigration is lawful.

8. (1) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor-General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor-General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

9. (1) Whenever the Governor-General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the *Gazette of India*, declare that emigration to that country shall cease to be lawful from a day specified in the notification; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The

(2) The grounds referred to in sub-section (1) of this section are—

- (a) that the plague or any other epidemic disease dangerous to human life has broken out in the country ;
- (b) that the mortality among emigrants in the country is excessive ;
- (c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein ;
- (d) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country ; and
- (e) that the Governor-General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor-General in Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor-General in Council, who shall thereupon publish a notification in the *Gazette of India* confirming or cancelling the notification published by the Local Government.

11. Whenever the Governor-General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by notification in the *Gazette of India*, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

12. (1) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all Natives of India or any specified class of Natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed or proceedings commenced before the publication.

CHAPTER

CHAPTER III.

EMIGRATION AGENTS.

14. (1) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary :

Provided that the Governor-General in Council may, from time to time, authorise the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor-General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

- (a) protect and aid with his advice all emigrants ;
- (b) cause, so far as he can, all the provisions of this Act, and of the rules made under this Act, to be complied with ;
- (c) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector ;
- (d) inquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government ; and
- (e) aid and advise the return-emigrants so far as he reasonably can.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

19. Every

19. Every Emigration Agent, and all persons in charge of, or employed in, any Protector and Medical Inspector to have facilities for inspection. depôt established under this Act, or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act, or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

RECRUITERS.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

- (2) A person shall not, unless he holds a license granted under this chapter,—
- (a) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or
 - (b) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or
 - (c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

22. (1) A license granted under this chapter shall not be in force for a longer period than one year from the day on which it comes into force.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such inquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such inquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is

is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds Power for Magistrate to cancel countersignature in certain cases. reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once Notice to Protector of Emigrants of countersignature, refusal to countersign or cancellation of countersignature. report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

26. (1) The Emigration Agent on whose application any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorised to offer on behalf of the Agent to intending emigrants.

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (1) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

Power for Local Government to appoint Registering Officers.

Execution of agreements.

29. Every agreement to emigrate entered into by any person must—

(a) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector ;

(b) if executed elsewhere, be executed in the presence of a Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

Appearance of intending emigrants before Registering Officer.

31. (1) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement ; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under Section twenty-six, he was authorised to offer, shall, subject to the provisions of Section thirty-three, register in a book to be kept for the purpose, in such form as the Governor-General in Council, from time to time, by rules made under this Act, prescribes, the name, sex, name of the father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Examination and registration of emigrant.

32. (1) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

Power to refuse registration in case of married women.

(2) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

33. (1) When any person appears before a Registering Officer or Protector under Section thirty as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany and as to his willingness to emigrate.

Examination of dependent.

(2) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant unless the name of the dependent is omitted from the register.

34. Whenever

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

Record of reasons for refusal to register.

35. (1) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in triplicate, and shall call on the recruiter and the intending emigrant to execute the agreement in triplicate in his presence, and, if they execute it, shall attest the execution with his signature.

Execution and attestation of agreement.

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section thirty-one, and on the reverse such particulars concerning the nature, duration and term of service and the remuneration of the emigrant, and such other matters (if any) as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Contents of agreement.

37. When the agreement has been executed and attested, one copy thereof shall be delivered to the recruiter for transmission to the Emigration Agent, another shall be delivered to the emigrant, and the third shall be retained by the Protector or sent by the Registering Officer to him.

Disposal of copies of agreement.

38. For the preparation of every agreement under this chapter the recruiter or Emigration Agent shall pay such fee as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes :

Fee for preparation of agreement.

Provided that the Governor-General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section seventy-three.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

Power to make agreement if over 16.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

Power to make agreement on behalf of child or ward.

CHAPTER VII.

EMIGRATION DEPÔTS.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

42. (1) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

- (a) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or
- (b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt, and examine the state of the depôt, and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND PROCEDURE ON ARRIVAL.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

49. (1) The copy of the agreement received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The Medical Inspector shall examine each emigrant entered in the agreement to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

50. (1) In any of the following cases, namely :—
(a) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—
 (a) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and
 (b) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section forty-seven have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—
 (a) to the emigrant a reasonable sum by way of compensation, and
 (b) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section forty-seven, to the Protector the expenses so incurred.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Master of emigrant-vessel to be licensed.

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

Application for license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, 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, apparel and furniture requisite for her intended voyage.

Survey and licensing of vessel.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

57. (1) A license shall not be granted under the last foregoing section unless—

Accommodation required on board emigrant-vessel.

- (a) there is provided for the emigrants, either between-decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;
- (b) a separate place is fitted up for a hospital; and
- (c) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (a) of this section must be firmly secured and entirely covered in.

58. Every emigrant-vessel must contain within the space referred to in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Rules as to space on board emigrant-vessel.

Provided that two emigrants under the age of ten years shall, for the purposes of this section, count as one only.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

62. (1) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the dépôt.

Time of embarkation after arrival.

64. (1) An emigrant-vessel shall not sail from any port in British India—

- (a) to any country west of the Cape of Good Hope, except at such seasons as the Governor-General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;
- (b) to any country during any season which the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife,

wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of Sections fifty, fifty-one and fifty-three shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. The Emigration Agent shall, after all the emigrants have embarked, deliver to the master all the agreements made by the Emigration Agent or under his authority with the emigrants, and delivered or sent to him under this Act; and the master shall, on arrival at the country to which the emigrants are to be conveyed, deliver these agreements to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act, or in the rules made under this Act, have in the case of that vessel been complied with.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided as follows:—

- (a) the fee payable under this section shall not be more than is, in the opinion of the Governor-General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor-General in Council thinks necessary to provide for the control of emigration:
- (b) if it appears to the Governor-General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor-General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

74. It

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Duty of master to see to observance of Act and rules on board his vessel.

Return of pass to emigrant.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

76. 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 have first embarked.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Emigrant-vessel sailing from Calcutta to be towed to sea.

78. (1) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(2) The provisions of Sections fifty, fifty-one and fifty-three shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for Governor-General in Council to make rules.

80. (1) The Governor-General in Council may, from time to time, make rules consistent with this Act—

- (a) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of police to be authorised to visit and inspect those places;

- (b) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;
- (c) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein and the language or languages in which agreements must be expressed;
- (d) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there;
- (e) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;
- (f) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;
- (g) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;
- (h) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;
- (i) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;
- (j) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels;
- (k) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;
- (l) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;
- (m) to provide for the disposal of emigrants who may be landed under Section seventy-nine;
- (n) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;
- (o) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;
- (p) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and

(q) generally

(q) generally to provide for the security, well-being and protection of emigrants:

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (g) of this section, permit an emigrant-vessel to sail though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

81. (1) The Governor-General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(a) makes, or attempts to make, any agreement with any Native of India purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or

(c) in consideration of any hire or reward, receives into or detains in any place, or being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation, shall be punished with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any police-officer may arrest him without warrant.

83. Whoever, being a recruiter licensed under this Act,—

(a) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(b) fails

(b) fails to give a true copy of the statement with which he is provided under Section twenty-six to any person whom he invites to emigrate, or

(c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt, shall be punished with fine which may extend to five hundred rupees.

84. (1) Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Fraudulently inducing Native to emigrate.

85. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

86. If any master of a vessel—

Receiving emigrants on board vessel in contravention of Act.

(a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act, or the rules made under this Act, so far as they are binding on him, or

(b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or

(c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees;

Fraudulent acts on part of master.

and he may also be sued on any bond which he may have executed under Section sixty-two.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of Section fifty-seven, fifty-nine or sixty have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees.

Clearance without compliance with Act.

89. If any master receives on board his vessel any emigrants and fails to comply with the requirements of Sections sixty-six, sixty-seven and sixty-eight in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

Failure of master to comply with provisions as to lists and passes.

90. If

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in Section sixty-six or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

Master taking on board, after clearance, emigrants not entered in list.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of Section seventy-eight or seventy-nine.

Master landing emigrant at other than specified country.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

Failure to comply with provisions as to leaving Calcutta.

(a) does not leave Garden Reach with his vessel within the time prescribed in Section seventy-six, or

(b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in Section seventy-seven,

he shall be punished with fine which may extend to one thousand rupees.

93. (1) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

Emigrant deserting or refusing to proceed to depôt.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Emigrant deserting from depôt or failing to embark.

94. (1) If any emigrant—
(a) deserts from the depôt, or
(b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of Section sixty-three, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Causing, or permitting, embarkation of emigrant in contravention of Section 63.

96. (1) Prosecutions

96. (1) Prosecutions under Sections eighty-six to ninety-five (both inclusive) shall not be instituted except as follows, namely:—

- (a) Prosecutions under Sections eighty-six to ninety-two, both inclusive, by the Emigration Agent, or by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.
- (b) Prosecutions under Section ninety-three, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation.
- (c) Prosecutions under Section ninety-four, by the Emigration Agent with the sanction of the Protector.
- (d) Prosecutions under Section ninety-five, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

Defence to charges of desertion. 97. The following shall be good defences to charges under Sections ninety-three and ninety-four, respectively, namely:—

- (a) to a charge under Section ninety-three, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;
- (b) to a charge under Section ninety-four, that the emigrant has suffered any ill-treatment or neglect in the dépôt or on the journey thither.

Power for Customs-officers to search and detain for purposes of Act. 98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

Power for Local Government to appoint Magistrates for purposes of Act. 99. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform within a specified local area the functions of a Magistrate under this Act.

Suits against Emigration Agent for breach of duty. 100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section, all sums ordered to be paid under Section fifty or Section fifty-two shall be taken into consideration.

Power for Governor-General in Council to determine probable lengths of voyages for purposes of Act. 101. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed to the countries mentioned in that schedule shall be deemed to be the lengths stated in that schedule.

Emigration to Straits Settlements and adjoining Native States. 102. (1) The Governor-General in Council may, by notification in the *Gazette of India*, extend the Straits Settlements Emigration Act, 1877, to the whole or any part of British India.

(2) The Governor-General in Council may also, from time to time, by a like notification, declare that all or any of the protected Native States adjoining the Straits Settlements shall, for the purposes of any law relating to emigration to those settlements, form part of those settlements.

(3) On and from the date of any notification published under Sub-section (2), a Native of India who departs by sea out of British India under an agreement to labor for hire in the Native State or States to which the notification refers shall not be deemed to emigrate within the meaning of this Act.

Application of Act to emigration from British ports to French and Dutch colonies. 103. The provisions of this Act shall apply to emigration from British Indian ports—

(a) to the French colonies, under the terms of the Convention executed at Paris on the 1st day of July 1861, and ratified at the same place on the 30th day of July 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and

(b) to the Netherlands colony of Dutch Guiana, under the terms of the Convention executed at the Hague on the 8th day of September 1870, and ratified at the same place on the 17th day of February 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in either of those Conventions, the latter shall prevail.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of Natives of India who depart by sea from a French port in India under an agreement to labor for hire in a French colony under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such Natives were emigrants within the meaning of this Act:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

Prohibition of departure by land of a Native of India under an agreement to labor for hire in some country beyond the sea. 105. (1) The departure by land out of British India of a Native of India under a contract to labor for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land—

- (a) of a domestic servant when accompanying his employer;
- (b) of a Native of India, for the purpose of departing by sea from a French port in India under an agreement to labor for hire in a French colony in accordance

accordance with the Convention referred to in Section one hundred and two.

(2) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under Section eighty-two.

SCHEDULE I.

(See Section 8.)

COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

- I.—The British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji.
 II.—The French Colonies of Martinique, Guadeloupe and its dependencies, and Guiana.
 III.—The Netherlands Colony of Dutch Guiana.
 IV.—The Danish Colony of St. Croix.

SCHEDULE II.

(See Section 21.)

FORM OF RECRUITER'S LICENSE.

OFFICE of the Protector of Emigrants at the Port of

A. B., described in the descriptive roll annexed, is hereby licensed under the Indian Emigration Act, 1883, to be a recruiter of emigrants for [here state the country for which the recruiter is licensed to recruit] in [here specify the local area within which the recruiter is licensed to recruit].
This license will be in force until the _____ of _____, unless previously cancelled.

(Signed) O. D.,
Protector of *Emigrants*.

Dated the day of

Descriptive Roll.

[illegible]

SCHEDULE

SCHEDULE III.

(See Section 101.)

PROBABLE LENGTHS OF VOYAGE UNDER THIS ACT.

FROM CALCUTTA—

FROM CALCUTTA—

To Mauritius	..	..	..	..	..	..	{ From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.							
To Natal	..	..	..	..	..	..	Twelve weeks.
To Fiji	..	..	..	..	..	..	Eighteen weeks.

FROM MADRAS--

[illegible]

FROM BOMBAY—

FROM BOMBAY—						From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.
To Mauritius	..	..	..	..	..	
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.						Nineteen weeks.
To Natal	..	..	..	..	..	Ten weeks.
To Fiji	..	..	..	..	..	Seventeen weeks.

D. FITZPATRICK,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. F. WEBSTER,
Chief Secretary.

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An Act to amend the law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay.

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor in the faculty of Law to persons who have not undergone a previous examination ;

and whereas the executive government of each of the said Universities is, by bye-laws made under the Acts establishing the same, vested in a Syndicate consisting of the Vice-Chancellor and certain of the Fellows ;

It is hereby enacted as follows :—

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

2. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of those present at a meeting of the Senate and is confirmed by the Chancellor, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to confer on that person the degree of Doctor in the faculty of Law, without requiring him to undergo any examination.

ACT No. II OF 1884.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th January 1884.)

An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby ; It is hereby enacted as follows :—

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered under the law in force at the time when they were executed :

Certain unregistered instruments of partition to have same force and effect as registered instruments.

Provided that this Act shall not—

- (a) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or
- (b) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or
- (c) affect any right established by a final decree of a Court of competent jurisdiction.

2. When

2. When any person to whom any right has accrued on the partition or any person claiming under that person has, by any such transfer as is mentioned in Section one, Clause (b), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly or indirectly caused such privation of right, or, if the sharer is dead, from his assets :

Compensation to person deprived of right owing to transfer under Section 1, Clause (b).

Provided that suit be brought within three years after the date on which this Act comes into force or within three years from the date of the transfer, if the transfer is made after this Act comes into force.

ACT No. XII OF 1884.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th July 1884.)

An Act to amend and provide for the extension of the Northern India Takkávi Act, 1879.

WHEREAS it is expedient to amend the Northern India Takkávi Act, 1879, and provide for its extension to any part of British India; It is hereby enacted as follows :—

Short title. 1. (1) This Act may be called the Agriculturists' Loans Act, 1884; and

Commencement. (2) It shall come into force on the first day of August 1884.

Local extent. 2. (1) This section and Section 3 extend to the whole of British India.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer.

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

3. (1) On and from the day on which this Act comes into force, the Northern India Takkávi Act, 1879, and Sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

(2) All

(2) All rules made under those Acts shall be deemed to be made under this Act.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

(2) All such rules shall be published in the local official Gazette.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

6. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

ACT No. XVII OF 1883.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 4th October 1883.)

An Act to amend the Native Passenger Ships Act, 1876.

WHEREAS it is expedient to amend the Native Passenger Ships Act, 1876, with a view to provide for the better regulation of the passenger-traffic between British India and ports in the Red Sea; It is hereby enacted as follows:—

1. (1) This Act may be called the Native Passenger Ships Act, 1883; and
(2) It shall come into force on such day as the Governor-General in Council directs by notification in the *Gazette of India*.

2. After clause (e) of section eleven of the Native Passenger Ships Act, 1876, the following clause shall be added:—

“(ee) in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and, if she is carrying more than one hundred passengers being Natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules made under this Act.”

3. For section twenty-six of the same Act the following section shall be substituted:—

“26. In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port clearance for any such ship shall not grant the clearance unless and

and until the owner, agent or master of the ship and two sureties resident in British India have executed in favor of the Secretary of State for India in Council a joint and several bond, for the sum of Rupees 5,000, conditioned—

“(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

“(b) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor-General in Council may, from time to time, make under section forty-six.”

Amendment of section 27 of same Act.

4. In section twenty-seven of the same Act, for the word “thirty” the word “sixty” shall be substituted.

5. To section twenty-eight of the same Act the following words shall be added:—

Addition to section 28 of same Act.

“and the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section forty-six are not complied with.”

Addition of new sections after section 28 of same Act.

6. After section twenty-eight of the same Act the following sections shall be added:—

“28A. Every ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being Natives of Asia or Africa shall have on board a medical officer licensed in accordance with rules made under this Act.

Certain ships to carry medical officer.

Certain ships to be propelled by steam.

“28B. Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

“28C. (1) The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in the Red Sea unless and until he has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

Power for Local Government to direct medical inspection of passengers.

“(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.”

Addition of new sections after section 38 of same Act.

7. After section thirty-eight of the same Act the following sections shall be added:—

“38A. If the master of any such ship as is referred to in section twenty-seven, or any medical officer in charge of any such ship, wilfully breaks, or omits or neglects to obey, any rule with regard to those ships made under section forty-six, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

“38B. If

“38B. If any ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers has not on board a medical officer as required by section 28A, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

“38C. If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on owner and master of certain ships not propelled by steam.

“38D. If the master of any ship, while a direction under section 28C is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees for each person so received, or with both.”

Penalty on master receiving passenger in contravention of section 28C.

Additions to section 46 of same Act.

8. After clause (b) of section forty-six of the same Act the following clause shall be added:—

“(bb) the licensing and appointment of medical officers in cases where they are required, under this Act, to be carried;”

and after clause (e) of the same section the following clauses shall be added:—

“(ee) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

“(eee) the access of intermediate or between decks passengers to the upper deck.”

New section added to same Act.

9. To the same Act the following section shall be added, namely:—

“50. The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.”

Power to exempt ship from provisions of Act.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 19th December 1884, and is hereby promulgated for general information :—

ACT No. XXI of 1884.

An Act to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing ; It is hereby enacted as follows :—

1. The Straits Settlements Emigration Act, 1877, is repealed.

New section substituted
or Section 102 of Act XXI
of 1883.

2. For Section 102 of the Indian Emigration Act, 1883, the following section shall be substituted :—

Power for Governor-
General in Council to
exempt emigration to
Native States adjoining
the Straits Settlements
from Act.

“ 102. On and from such a date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labor for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act.”

D. FITZPATRICK,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. F. WEBSTER,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 6th February 1885, and is hereby promulgated for general information :—

ACT No. V OF 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing ; It is hereby enacted as follows :—

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely :— "Conservator, and at the custom-house, if any, of every port to which such order relates."

2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely :— "The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely :— "With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty."

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any Hospital Port-dues imposed under section fifty-nine at that port."

4. To

4. To the third paragraph of section 59 of the same Act the following shall be added, namely:—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Addition to paragraph 3, section 59, of the same Act.

5. In the entry relating to the Cuttack ports in Part II of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely:—"Not exceeding four annas per ton."

Amendment of Schedule I, Part II, of the same Act.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. F. WEBSTER,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July 1885, and is hereby promulgated for general information:—

ACT No. XII OF 1885.

An Act to amend the law relating to the Carriage of Passengers by Sea.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October 1885.

2. On and from the day on which this Act comes into force, Act II of 1860 *(to amend the law relating to the carriage of passengers by sea)* shall be repealed.

3. The provisions contained in sections 4, 5, and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely:—

- (a) voyages from the ports of Calcutta, Madras, and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;
- (b) voyages from the ports of Calcutta, Madras, and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;
- (c) voyages from the ports of Calcutta, Madras, and Bombay to the Netherlands Colony of Dutch Guiana;
- (d) voyages from the ports of Calcutta, Madras, and Bombay to the Danish Colony of St. Croix;
- (e) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of any such expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

Insurance.

THE

THE SCHEDULE.

*Form of Governor's or Consul's Certificate of Expenditure in the case of
Passengers shipwrecked, &c.*

(See section 6.)

(a) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) *N.B.*—2. Omit words in brackets when necessary.

(c) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers [including cabin-passengers (b)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (c).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of , 18 .

{ Governor of, &c. (or, as the case may be) *Her Britannic Majesty's Consul at*

D. FITZPATRICK,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. F. WEBSTER,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd July 1885, and is hereby promulgated for general information :—

ACT No. XIII of 1885.

THE INDIAN TELEGRAPH ACT, 1885.

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An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, local extent, and commencement. 1. (1) This Act may be called the Indian Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October 1885.

Repeal and savings.

2. The Indian Telegraph Act, 1876, is hereby repealed. But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—
(1) "Telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism:

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act:

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered:

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same:

(5) "Post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line:

(6) "Telegraph authority" means the Director-General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) "Local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs :
Exclusive privilege in respect of telegraphs, and power to grant licenses.
 Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a local Government, or any officer specially authorized in this behalf by the Governor-General in Council, may—
Power for Government to take possession of licensed telegraphs and to order interception of messages.

- (a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act ; or
- (b) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the local Government shall be conclusive proof on the point.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.
Power to establish telegraph on land of Railway Company.

7. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.
Power to make rules for the conduct of telegraphs.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say :—

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted ;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages ;
- (c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved ; and
- (d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same :

Provided

Provided that the fines so prescribed shall not exceed the following limits, namely :—

- (i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues ;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.
Revocation of licenses.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message ; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.
Government not responsible for loss or damage.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph lines and posts.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immoveable property :

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained ;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post ; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority ; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

Power to enter on property in order to repair or remove telegraph lines or posts.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

Power for local authority to give permission under section 10, clause (c), subject to conditions.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power for local authority to require removal or alteration of telegraph line or post.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Power to alter position of gas or water pipes or drains.

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the local Government may appoint either generally or specially in this behalf.

Disputes between telegraph authority and local authority.

(2) An appeal from the determination of the officer so appointed shall lie to the local Government; and the order of the local Government shall be final.

Provisions applicable to other Property.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

16. (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If,

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court or the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Removal or alteration of telegraph line or post on property other than that of a local authority.

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as as he deems fit.

Removal of trees interrupting telegraphic communication.

(2) When

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act under, Telegraph lines and posts placed before the passing of this Act. over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues. Establishing, maintaining or working unlicensed telegraph or breaking condition of license.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees. Using such telegraphs.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues. Opposing establishment of telegraphs on railway land.

Intrusion into signal-room, trespass in telegraph office or obstruction.

23. If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year. Unlawfully attempting to learn contents of messages.

25. If

Intentionally damaging or tampering with telegraphs.

25. If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
 - (b) to intercept or to acquaint himself with the contents of any message, or
 - (c) to commit mischief,
- damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,
- he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or
 - (b) wilfully, and otherwise than in obedience to an order of the Governor-General in Council or of a local Government, or of an officer specially authorized by the Governor-General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or
 - (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,
- he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both. Telegraph officer fraudulently sending messages without payment.

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both. Misconduct.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both. Sending fabricated message.

30. If

30. If any person fraudulently retains, or wilfully secretes, makes away with or retains a message delivered by mistake. ^{Retaining a message delivered by mistake.} detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164, and 165 of the Indian Penal Code; ^{Bribery.} and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

32. Whoever attempts to commit any offence punishable under this Act shall ^{Attempts to commit offences.} be punished with the punishment herein provided for the offence.

PART V.

SUPPLEMENTAL PROVISION.

33. (1) Whenever it appears to the local Government that any act causing or ^{Power to employ additional police in places where mischief to telegraphs is repeatedly committed.} likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The local Government may, by order in writing, define the limits of any place for the purposes of this section.

D. FITZPATRICK,
Secretary to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. F. WEBSTER,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October 1885, and is hereby promulgated for general information:—

ACT No. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Securities Act, ^{Short title and commencement.} 1885; and

(2) It shall come into force at once.

2. In this Act—

^{Definitions.} The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor-General in Council in this behalf.

3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, ^{Right of survivors of joint payees of Government securities.} when a Government security issued before the first day of April 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

5. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor-General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

7. The Governor-General in Council may, from time to time, make rules to prescribe—

(a) the fees to be paid for applications under sections 4 and 5;

(b) the form in which securities delivered for renewal are to be receipted;

(c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;

(d) the proof which is to be produced by persons applying for duplicate securities;

(e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;

(f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally

(g) generally all matters connected with the grant of renewed and duplicate securities.

8. (1) The Governor-General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secretary to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

W. WILSON,
Ag. Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 29th January 1886, and is hereby promulgated for general information:—

ACT No. II of 1886.

An Act for imposing a Tax on Income derived from sources other than Agriculture.

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An

*An Act for imposing a Tax on Income derived from sources other than
Agriculture.*

WHEREAS it is expedient to impose a tax on income derived from sources other than agriculture; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor-General in Council in that behalf; and

(2) It shall come into force on the first day of April 1886.

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. On and from the day on which this Act comes into force the enactments specified in the first schedule to this Act shall be repealed, except as to fees payable and other sums due under those enactments and the mode of recovering the same.

Repeal.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund:

(2) “company” means an association carrying on business in British India, whose stock or funds is or are divided into shares and transferable, whether the company is incorporated or not, and whether its principal place of business is situate in British India or not:

(3) “prescribed” means prescribed by the Governor-General in Council by notification in the *Gazette of India*, or by the Governor-General in Council or a Local Government by rules made under this Act:

(4) “salary” includes allowances, fees, commissions, perquisites or profits received, in lieu of or in addition to a fixed salary, in respect of an office or employment of profit; but, subject to any rules which may be prescribed in this behalf, it does not include travelling, tentage, horse or sumptuary allowance, or any other allowance granted to meet specific expenditure:

(5) “income” means income and profits accruing and arising or received in British India, and includes, in the case of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty, any salary, annuity, pension or gratuity payable to that subject by the Government or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf:

(6) “Magistrate” means a Presidency Magistrate or a Magistrate of the first or second class:

(7) “person” includes a firm and a Hindu undivided family:

(8) “defaulter” includes a company or firm making default under this Act:

(9) “Collector” means the chief officer in charge of the revenue-administration of a district, and, in a presidency-town, any officer whom the Local Government, by notification

notification in the official Gazette, may, by name or by virtue of his office, appoint to be a Collector for the purposes of this Act; in the case of a company or firm, it means the Collector, as here defined, of the district or presidency-town in which its principal place of business in British India is situate; and, in the case of any other person chargeable under this Act, it means the Collector, defined as aforesaid, of the district or presidency-town in which the person has his residence:

(10) “principal officer,” used with reference to a local authority or a company or any other public body or association not being a local authority or company, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association; or

(b) any person connected with the authority, company, body or association upon whom the Collector has caused a notice to be served of his intention of treating him as the principal officer thereof; and

(11) “Part” means a part of the second schedule to this Act.

CHAPTER II.

LIABILITY TO TAX.

4. Subject to the exceptions mentioned in the next following section, there shall be paid, in the year beginning with the first day of April 1886, and in each subsequent year, to the credit of the Government of India, or as the Governor-General in Council directs, in respect of the sources of income specified in the first column of the second schedule to this Act, a tax at the rate specified in that behalf in the second column of that schedule.

Exceptions.

5. (1) Nothing in section 4 shall render liable to the tax—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land-revenue or subject to a local rate assessed and collected by officials of the Government, as such; or

(b) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce; or

(c) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (a), or by the cultivator, or the receiver of rent-in-kind, of any land with respect to which or the produce whereof any operation mentioned in clause (b) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue, or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, factory or other out-building; or

(d) any

- (d) any profits of a shipping company incorporated or registered out of British India and having its principal place of business out of India and its ships ordinarily engaged in sea-going traffic out of Indian waters; or
- (e) any income derived from property solely employed for religious or public charitable purposes; or
- (f) any income which a person enjoys as a member of a company or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax; or,
- (g) subject to any conditions and restrictions which may be prescribed in this behalf, such portion, not exceeding one-sixth, of the income in respect whereof a person would, but for this exception, be chargeable under this Act, as is deducted from the salary of the person under the authority or with the permission of the Government for the purpose of securing a deferred annuity to him or a provision to his wife or children after his death or is paid by the person to an insurance company in respect of an insurance or deferred annuity on his own life or on the life of his wife; or
- (h) any interest on stock-notes; or
- (i) the salary of any officer, warrant-officer, non-commissioned officer or private of Her Majesty's Forces or of Her Majesty's Indian Forces who is not in an employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose salary does not exceed five hundred rupees per mensem; or
- (j) any person whose income from all sources is less than five hundred rupees per annum.
- (2) An officer or servant is not exempt from taxation under this Act by reason only of the income of his employer being exempt therefrom under this section.
6. The Governor-General in Council may, by notification in the *Gazette of India*, exempt from liability to the tax the whole or any part of the income of any class or tribe, or of any persons residing in any specified area, and may, by a like notification, revoke the exemption.

Power to make exemptions.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

7. In the case of a person receiving any salary, annuity, pension or gratuity from the Government, any sum payable to him by the Government in respect of the salary, annuity, pension or gratuity shall be reduced by the amount of the tax to which he is liable under Part I in respect thereof.
8. (1) In the case of a person receiving any salary, annuity, pension or gratuity from a local authority, the tax to which he is liable under Part I shall, at the time of the payment to him of any of the salary, annuity, pension or gratuity, be deducted therefrom by the officer whose duty it is to make the payment, and be paid by that

Mode of payment in case of Government officials and pensioners.

Mode of payment in case of servants and pensioners of local authorities.

that officer within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that officer does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(3) If, when any payment is made, the tax is from any cause not deducted, it may, and on the requisition of the Collector shall, be deducted when any salary, annuity, pension or gratuity is subsequently paid to the person liable to the tax.

(4) The power to deduct under this section shall be without prejudice to any other mode of recovery.

9. (1) The tax to which a person receiving any salary, annuity, pension or gratuity from a company, or from any other public body or association not being a local authority or company, or from a private employer, is liable under Part I shall be payable by him at the time when any portion of the salary, annuity, pension or gratuity is paid to him.

Mode of payment in case of servants and pensioners of companies and private employers.

(2) The Collector may, subject to such conditions as may be prescribed, enter into an arrangement with any company, or any such body or association as aforesaid, or any private employer, with respect to the recovery on behalf of the Government by the company, body, association or employer of the tax to which any person receiving any salary, annuity, pension or gratuity from the company, body, association or employer is liable under Part I.

10. The principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

Annual return by principal officer of company or association.

- (a) the name of every person who is receiving at the date of the return any salary, annuity or pension, or has received during the year ending on that date any gratuity, from the authority, company, body or association, as the case may be, and the address of every such person so far as it is known; and
- (b) the amount of the salary, annuity, pension or gratuity so received by each such person, and the time at which the same becomes payable or, in the case of a gratuity, was paid.

B.—Profits of Companies.

11. The principal officer in British India of every company shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, a statement in writing signed by him of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of the nett profits so made during the year ending on the said thirty-first day of March.

Annual statement of nett profits.

12. (1) If

12. (1) If the Collector has reason to believe that a statement delivered under section 11 is incorrect or incomplete, he may cause to be served on the principal officer of the company a notice requiring him, on or before a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced, for the inspection of the Collector such of the accounts of the company as refer to the year to which the statement relates and as are in his possession or power.

(2) On the day specified in the notice, or as soon afterwards as may be, the Collector shall, by an order in writing, determine the amount at which the company shall be assessed under Part II, and the time when the amount shall be paid, and, subject to the provisions of this Act, that amount shall be payable accordingly.

C.—Interest on Securities.

13. (1) The tax payable under Part III in respect of the interest on any of the securities mentioned in that Part shall, at the time when and place where any of the interest is paid, be deducted therefrom by the person empowered to pay the interest, and be paid by that person within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that person does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

D.—Other Sources of Income.

Ordinary Mode of Assessment and Collection.

14. The Collector shall, from time to time, determine what persons are chargeable under Part IV, and the amount at which every person so chargeable shall be assessed.

15. (1) The assessment shall be made upon the income accruing to the person during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then upon the income accruing to him during the year ending on the said thirty-first day of March.

(2) In the case of a person for the first time becoming chargeable under Part IV within the year for which the assessment is to be made, or within the year next before that year, the assessment shall be made according to an average of his income for such period as the Collector, having regard to the circumstances, directs.

16. (1) The Collector shall in each year prepare a list of the persons chargeable under Part IV whose annual income does not, in his opinion, amount to two thousand rupees.

(2) The list shall be in the prescribed language or languages, and shall state in respect of every such person the following particulars, namely:—

(a) his name, and the source or sources of the income in respect of which he is chargeable;

(b) the

- (b) the year or portion of the year for which the tax is to be paid;
- (c) the place or places, district or districts, where the income accrues;
- (d) the amount to be paid; and
- (e) the place where, and the person to whom, the amount is to be paid.

(3) The list shall be filed in the office of the Collector, with a notification prefixed thereto requiring every person mentioned in the list to pay, within sixty days from a date specified in the notification, the amount stated in the list as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

(4) The list so filed shall be open to inspection at all reasonable times without any payment.

(5) The list, or such part or parts thereof as the Collector thinks fit, with the notification prefixed thereto, shall be further published in such manner as the Local Government may consider to be best adapted for giving information to all persons concerned.

(6) The list to be prepared in each year may be the list of the previous year with such amendments as the Collector finds to be necessary.

17. In the case of a person chargeable under Part IV whose annual income is, in the Collector's opinion, two thousand rupees or upwards, the Collector shall cause a notice to be served on him stating the particulars (a) to (e), both inclusive, mentioned in section 16, sub-section (2), and requiring him to pay, within sixty days from a date specified in the notice, the amount stated therein as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

Power to modify ordinary procedure in special cases.

18. (1) Notwithstanding anything contained in section 16 or section 17, the Local Government may make rules—

- (a) authorizing or directing a Collector in specified cases, or classes of cases, to include in a list under section 16 any person who is liable to be served with a notice under section 17 instead of or in addition to serving him with such a notice, and to serve a notice under section 17 on any person liable to be included in a list under section 16 instead of or in addition to including him in such a list;
- (b) authorizing the Collector in any specified town or place to cause a general notice to be published, inviting every person chargeable under Part IV to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form published with the notice, of his income during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of his income during the year ending on the said thirty-first day of March;
- (c) authorizing the Collector in any presidency-town to cause a special notice to be served on any person chargeable under Part IV, inviting him to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form accompanying the notice, of his income computed in the manner described in clause (b) of this sub-section.

(2) A

(2) A return delivered under rules made under clause (b) or clause (c) of sub-section (1) must state the period during which the income has actually accrued; and there must be added at the foot thereof a declaration that the income shown in the return is truly estimated on all the sources therein mentioned, that it has actually accrued within the period therein stated, and that the person making the return has no other source of income.

(3) When a Collector authorized in that behalf by rules made under clause (b) or clause (c) of sub-section (1) has caused a notice to be published or served under those rules, he shall not include any person to whom the notice applies in any list made under section 16 or serve a notice on him under section 17 until the time specified in the notice published or served under those rules has expired.

(4) Rules made under this section shall be published in the official Gazette.

19. Every amount specified as payable in a list or notice prepared or served under section 16 or section 17 shall be paid within the time, at the place, and to the person, mentioned in the list or notice.

Time and place of payment.

Trustees, Agents, Managers, and Incapacitated Persons.

20. A person being the trustee, guardian, curator or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of the infant, married woman, lunatic or idiot, whether the infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot is chargeable under Part IV, be chargeable under that Part in like manner and to the same amount as the infant would be chargeable if he were of full age, or the married woman if she were sole, or the lunatic or idiot if he were capable of acting for himself.

Trustees, guardians, and committees of incapacitated persons to be charged.

21. Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under Part IV, shall be chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.

Non-residents to be charged in names of their agents.

22. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras and Bombay, and the Official Trustees shall be chargeable under Part IV in respect of all income officially in their possession or under their control which is liable to assessment under that Part.

Receivers, managers, Courts of Wards, Administrators-General and Official Trustees.

Power to retain duties charged on trustees, &c.

23. When a trustee, guardian, curator, committee or agent is, as such, assessed under Part IV, or when a receiver or manager appointed as aforesaid, a Court of Wards, an Administrator-General or an Official Trustee is assessed under that Part in respect of income officially received,

the person or Court so assessed may, from time to time, out of the money coming to his or its possession as trustee, guardian, curator, committee or agent, or as receiver, manager, Court of Wards, Administrator-General or Official Trustee, retain so much as is sufficient to pay the amount of the assessment.

Occupying

Occupying Owners.

24. (1) Where a building is occupied by its owner, it shall be deemed a source of income within the meaning of this Act, and, if liable to be assessed under this Act, shall be assessed at five-sixths of the gross annual rent at which it may reasonably be expected to let, and, in the case of a dwelling house, may be expected to let unfurnished.

(2) "Owner," as used in this section with reference to a building, means the person who would be entitled to receive the rent of the building if the building were let to a tenant.

Provision for tax on occupying owners.

CHAPTER IV.

REVISION OF ASSESSMENT.

25. (1) Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part IV may apply by petition to the Collector to have the assessment reduced or cancelled.

Petition to Collector against assessment under Part IV.

(2) The petition shall ordinarily be presented within the period specified in the notification prefixed to the list filed under section 16, or in the notice served under section 17, as the case may be. But the Collector may receive a petition after the expiration of that period if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall, as nearly as circumstances admit, be in the form contained in the third schedule to this Act, and the statements contained in the petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints.

26. The Collector shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon as he thinks fit.

Hearing of petition.

27. Subject to the control of the Local Government, the Commissioner of the Division, on the petition of any person deeming himself aggrieved by an order under section 12, sub-section (2), or section 26 shall, if the amount of the assessment to which the petition relates is two hundred and fifty rupees or upwards, and may in his discretion if the amount of the assessment is less than two hundred and fifty rupees, call for the record of the case, and pass such order thereon as he thinks fit.

Petition to Commissioner for revision.

28. The Collector or Commissioner may, for the purpose of enabling him to determine how the petitioner or the company which he represents should be assessed, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure:

Power to summon witnesses, &c.

Provided that the Collector or Commissioner shall not call for any evidence except at the instance of the petitioner or in order to ascertain the correctness of facts alleged by him.

CHAPTER

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

29. The tax chargeable under this Act shall be payable at the time appointed in that behalf in or under this Act, or, if a time is not so appointed, then on the first day of June in each year.

Tax when payable.

30. (1) In any case of default under this Act the Collector, in his discretion, may recover a sum not exceeding double the amount of the tax either as if it were an arrear of land-revenue or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which he is subordinate, or may pass an order that a sum not exceeding double that amount shall be recovered from the defaulter:

Provided that, where a person has presented a petition under section 25, such sum shall not be recoverable from him unless, within thirty days from the passing of the order on the petition, he fails to pay the amount, if any, required by that order.

(2) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of the tax chargeable under this Act.

(3) An order passed by the Collector under sub-section (1) 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 the 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, namely,—

- (a) sales in execution of decrees,
- (b) arrest 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 sum mentioned in the order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be exercised and discharged by the Collector by whom the order has been made or to whom a copy thereof has been sent for execution according to the provisions of the said Code, sections 223 and 224.

(4) The Local Government may direct, with respect to any specified area, that the tax chargeable under this Act shall be recovered therein with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(5) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable.

CHAPTER

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

31. (1) If a company or person desires to compound for the tax assessable under Part II or Part IV, as the case may be, the Collector may, subject to such rules as may be prescribed in this behalf, agree with the company or person for a composition for the tax on such terms and for such period as he thinks fit.

Agreements for composition.

(2) The agreement shall provide for the payment, in each year of the period comprised in the agreement, of the amount of the composition; and that amount shall be recoverable in the same manner and by the same means as any other assessment made under Part II or Part IV, as the case may be.

Receipts.

32. When any money is paid under this Act to the Collector or is recovered thereunder by him, he shall give a receipt for the same, specifying—

Receipts and their contents.

- (a) the date of the payment or recovery of the money;
- (b) the amount paid or recovered;
- (c) the person who was liable to the tax, and the source or sources of income in respect of which the tax was payable;
- (d) the year or part of the year for which the tax was payable;
- (e) the place or places, district or districts, where the income accrues; and
- (f) such other particulars, if any, as may be prescribed.

Amendment of Assessment.

33. If a company or person assessed under Part II or Part IV ceases to carry on the trade or business in respect whereof the 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, then the company or person or its or his representative in interest may apply to the Collector during or within three months after the end of the year, and the Collector, on proof to his satisfaction of any such cause as aforesaid, shall amend the assessment as the case may require, and refund such sum, if any, as has been overpaid.

Amendment of assessment.

Penalties.

Failure to make payments or deliver returns or statements.

34. (1) If a person fails—

- (a) to deduct and pay any tax as required by section 8, sub-section (1), or section 13, sub-section (1), or
- (b) to deliver or cause to be delivered to the Collector in due time the return or statement mentioned in section 10 or section 11, or

(c) to

(c) to produce, or cause to be produced, on or before the date mentioned in a notice under section 12, such accounts as are referred to in the notice, he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) The Commissioner of the Division may remit wholly or in part any fine imposed under this section.

35. If a person makes a statement in a declaration mentioned in section 18, sub-section (2), which is false, and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

36. A person shall not be proceeded against for an offence under section 34 or section 35, except at the instance of the Collector.

37. Any proceeding under section 12 or Chapter IV of this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

Power to make Rules.

38. (1) The Governor-General in Council may make rules consistent with this Act for ascertaining and determining income liable to assessment, for preventing the disclosure of particulars contained in documents delivered or produced with respect to assessments under Part IV, and, generally, for carrying out the purposes of this Act, and may delegate to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor-General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code :

(3) But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(4) Rules made under this section shall be published in the official Gazette.

Miscellaneous.

39. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

40. All or any of the powers and duties conferred and imposed by this Act on a Collector or on a Commissioner of Division may be exercised and performed by such other officer or person as the Local Government appoints in this behalf.

41. An officer or person exercising all or any of the powers of a Collector under this Act may, by notice, require any person to furnish a list, in the prescribed form, containing, to the best of his belief,—

(a) the name of every inmate or lodger resident in any house used by him as a dwelling-house or let by him in lodgings ;

(b) the

(b) the name of every other person receiving salary or emoluments amounting to forty-one rupees ten annas and eight pies per mensem, or five hundred rupees per annum, or upwards, employed in his service, whether resident in any such house as aforesaid or not ; and

(c) the place of residence of such of those persons as are not resident in any such house, and of any inmate or lodger in any such house who has a place of residence elsewhere at which he is liable under this Act to be assessed, and who desires to be assessed at that place.

42. An officer or person exercising all or any of the powers aforesaid may, by notice, require any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent to deliver or cause to be delivered a statement of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

43. An officer or person exercising all or any of the said powers may, by notice, require a trustee, guardian, curator, committee or agent, or a receiver or manager appointed by any Court in India, or a Court of Wards, Administrator-General or Official Trustee, to furnish such returns of income liable to assessment under Part IV as may be prescribed.

44. An officer or person exercising all or any of the said powers may, at the instance of any person respecting whose assessment or the amount thereof any doubt exists, require any person to furnish such information as he deems to be necessary for the purpose of ascertaining facts relevant to the assessment or its amount.

45. A person required to furnish any information under section 41, section 42, section 43 or section 44 shall be legally bound to furnish the same in such manner and within such time as may be specified in the requisition for the information.

46. (1) A notice under this Act may be served on the person therein named either by a prepaid letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866, or by the delivery or tender to him of a copy of the notice.

(2) If a notice is served by registered letter, it shall be presumed to have been served at the time when the letter would be delivered in the ordinary course of post, and proof that the letter was properly addressed and put into the post shall be sufficient to raise the presumption that the notice was duly served at that time.

(3) If the notice is to be served otherwise than by registered letter, the service shall, whenever it may be practicable, be on the person named in the notice, or, in the case of a firm, on some member thereof, or, in the case of a Hindu undivided family, on the manager of the joint estate of the family :

(4) But when the person, member or manager 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, firm or family therein named ordinarily resides or carries on business.

47. (1) When

47. (1) When a company or firm has several places of business in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be the principal place of business.

(2) When a company or firm has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

(3) When a person has several places of residence in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(4) When a person has several places of residence in the territories subject to a single Local Government, that Government may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(5) 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, appoints in this behalf.

48. Where a person is in respect of any period liable to the tax under this Act, he shall not in respect of that period be assessed to the pāndharī-tax levied in the Central Provinces under Act XIV of 1867, or to the capitation-tax, or the land-rate in lieu thereof, levied in British Burma under the Burma Land and Revenue Act, 1876.

49. Every person deducting, retaining or paying any tax in pursuance of this Act or of any arrangement under section 9, sub-section (2), in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

50. All powers conferred by, or conferable under, this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.		
Number and Year.	Short Title.	Extent of Repeal.
Act No. II of 1878 ..	The Northern India License Act, 1878 ..	So much as has not been repealed.
Act No. VI of 1880 ..	The Indian License Acts Amendment Act, 1880 ..	The whole.

Acts

ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. III of 1878..	The Madras License Act, 1878	So much as has not been repealed.
Act No. III of 1880..	An Act to amend Madras Act III of 1878 as amended by Act VI of 1880.	The whole.

ACT OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. III of 1878..	The Bombay License Act, 1878	So much as has not been repealed.

ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and Year.	Short Title.	Extent of Repeal.
Act No. II of 1880 ..	The Bengal License Act, 1880	The whole.

THE SECOND SCHEDULE.

SOURCES OF INCOME AND RATES OF TAX.

(See section 4.)

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.

PART I.

SALARIES AND PENSIONS.

1. Any salary, annuity, pension or gratuity paid in British India to or on behalf of any person residing in British India or serving on board a ship plying to or from British Indian ports, whether on account of himself or another person.

2. Any salary, annuity, pension or gratuity paid by the Government, or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf, to or on behalf of a British subject within the dominions of a Prince or State in India in alliance with, Her Majesty.

(a) If the income amounts to Rs. 2,000 per annum, or Rs. 166-10-8 per mensem, or upwards,—five pies in the rupee.

(b) If the income is less than Rs. 2,000 per annum, or Rs. 166-10-8 per mensem,—four pies in the rupee.

PART

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.

PART II.

PROFITS OF COMPANIES.

Profits of a company	Five pies in the rupee on the whole of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then on the whole of the nett profits so made during the year ending on the said thirty-first day of March.
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PART III.

INTEREST ON SECURITIES.

Interest becoming due on or after the first day of April 1886, and payable in British India, on— (a) promissory notes, debentures, stock or other securities of the Government of India (including securities of the Government of India whereon interest is payable out of British India by draft on any place in British India), or (b) bonds or debentures charged by the Imperial Parliament on the revenues of India, or (c) debentures or other securities for money issued by or on behalf of a local authority or company.	Five pies in the rupee on such interest, unless the owner of the security produces a certificate signed by the Collector that his annual income from all sources is less than Rs. 500, in which case no deduction shall be made from the interest, or unless he produces a like certificate that his income from all sources is less than Rs. 2,000, in which case the rate shall be four pies in the rupee.
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PART IV.

OTHER SOURCES OF INCOME.

Any source of income not included in Part I, Part II or Part III of this schedule.	(a) If the annual income is assessed at— not less than Rs. 500 but less than Rs. 750 the tax shall be Rs. 10	
	" " 750 " " 1,000 " " 15	
	" " 1,000 " " 1,250 " " 20	
	" " 1,250 " " 1,500 " " 28	
	" " 1,500 " " 1,750 " " 35	
	" " 1,750 " " 2,000 " " 42	
	(b) If the annual income is assessed at Rs. 2,000 or upwards—five pies in the rupee on the income.	

THE THIRD SCHEDULE.

FORM OF PETITION.

(See section 25.)

To THE COLLECTOR OF

The

day of

The petition of A.B. of

188

SHOWETH as follows—

1.—Under Act No. II of 1886, your petitioner has been assessed in the sum of rupees for the year commencing the first day of April 188

2.—Your

2.—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 day of last were rupees
[as will appear from the documents of which a list is presented herewith.*]
3.—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.—During the said year your petitioner had no other income or profits.
Your petitioner therefore prays that he may be assessed accordingly [or that he may be declared not to be chargeable under the said Act].

(Signed) A. B.

Form of Verification.

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

(Signed) A. B.

* These words are to be inserted if the petitioner relies on documents. The list, if the petitioner so wishes, may be presented in a sealed envelope.

S. HARVEY JAMES,
Cfy. Secretary to Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

W. WILSON,
Ag. Chief Secretary.

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ACT No. XVIII OF 1886.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th September 1886.)

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to amend Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*); It is hereby enacted as follows:—

New section inserted after section 6.

1. After section 6 the following shall be inserted, namely:—

“ 6 A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy, is apprehended and sent to the Magistrate or the Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him and then determines to proceed as prescribed in section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer, may, by order in writing, authorise the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the form A in the schedule to this Act ought to be signed.

“(2) If the medical officer certifies further detention than has been authorised under sub-section (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorise such further detention as he deems to be necessary :

“ Provided

ACT No. XVIII of 1886.

" Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the date on which the first order authorising his detention for that purpose is made.

"(3) The Executive Government may from time to time make rules as to the place of detention, and the care and treatment, of supposed lunatics detained under this section."

Amendment of section 9.

2. To section 9 the words "Subject to the provisions of any enactment for the time being in force," shall be prefixed.

New sections to follow section 17.

3. After section 17 the following shall be inserted, namely:—

"17 A. When an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics under this Act, the Governor-General in Council may from time to time appoint an asylum established in British India beyond those limits to be an asylum to which a Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.

Provision for provinces not having asylums.

"17 B. The Governor-General in Council may from time to time, by order, direct, with respect to any part of British India which is not annexed to a presidency or, being annexed to the presidency of Fort William, Fort St. George or Bombay, is situated at a greater distance than three hundred miles from Calcutta, Madras or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of this Act."

Use of provincial asylums as presidency asylums for purposes of the Act.

ACT No. I of 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th January 1887.)

An Act for further shortening the language used in Acts of the Governor-General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor-General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1; It is hereby enacted as follows:—

1. (1) This Act may be called the General Clauses Act, 1887; and

(2) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

2. This Part shall apply to this Act and to all Acts made by the Governor-General in Council under the Indian Councils Act, 1861, after the passing of this Act.

Application of this Part.

Definitions.

3. In any Act to which this Part applies, unless there is something repugnant in the subject or context,—

(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

(2) "Chapter,"

[PRIORITY, 9 PAGES.]

(2) "Chapter," "Part" and "schedule" shall denote, respectively, a Chapter and Part of, and schedule to, the Act in which the word occurs :

(3) "sub-section" shall denote a sub-section of the section in which the word occurs :

(4) "commencement," used with reference to an Act, shall mean the day on which the Act comes into force :

(5) "financial year" shall mean the year commencing on the 1st day of April :

(6) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund :

(7) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars :

(8) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship :

(9) "offence" shall mean any act or omission made punishable by any law for the time being in force :

(10) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code :

(11) "registered" shall mean registered under the law for the time being in force for the registration of documents :

(12) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions :

(13) "value," used with reference to a suit, shall mean the amount or value of the subject-matter of the suit : and

(14) "write," with its grammatical variations and cognate expressions, shall include "print" and "lithograph," with their grammatical variations and cognate expressions.

4. Where, by an Act to which this Part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor-General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

5. Any power conferred on the Governor-General in Council or on a Local Government by an Act to which this Part applies may be exercised from time to time as occasion requires.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely :—

(1) The

(1) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor-General in Council or the Local Government prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(5) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publication shall be conclusive proof that the rule has been duly made.

7. (1) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(2) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(3) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

SUPPLEMENTAL PROVISIONS.

9. The words "wholly or partially" shall be inserted before the word "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and shall be deemed to have been there from the commencement of that Act.

10. The

10. The provisions of this Act and of the General Clauses Act, 1868, shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor-General under the Statute 33 Victoria, chapter 3, section 1, after the commencement of this Act.

Application of this Act and Act I, 1868, to Regulations under 33 Vic., cap. 3, s. 1.

ACT No. II OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th January 1887.)

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

SEA CUSTOMS ACT, 1878.

1. (1) In clause (b) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word "unless" the word "either," and after the word "destination" the following, namely:—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port."

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid," namely:—

"so paid or the spirit so delivered."

2. In section 146 of the same Act, for the word "shall" in each of the two places where that word occurs, the word "may" shall be substituted.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the Indian Tariff Act, 1882."

(2) To

(2) To the same section of the same Act the following shall be added, namely :—

“Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.”

Amendment of section 151.

4. (1) To section 151 of the same Act the following words shall be prefixed, namely :—

“Notwithstanding anything in the Indian Tariff Act, 1882.”

(2) After the same section of the same Act the following shall be added, namely :—

“Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed.”

EXCISE ACT, 1881.

New section substituted for section 23.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely :—

“23. (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

“(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

“(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

“(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882.

“(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.”

Amendment of section 36.

6. (1) In clause (c) of section 36 of the same Act the words “or fermented liquor” shall be inserted after the words “any spirit.”

(2) In the last paragraph of the same section of the same Act the words “or fermented liquor” shall be inserted between the words “the spirit” and the words “together with.”

INDIAN TARIFF ACT, 1882.

Repeal of portion of preamble.

7. In the preamble to the Indian Tariff Act, 1882, the words “and for fixing a maximum duty of excise on spirit manufactured in British India” are repealed.

8. To

Addition to section 7.

8. To section 7 of the same Act the following shall be added, namely :—

“Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878.

Amendment of Second Schedule.

9. In No. 2 of the Second Schedule to the same Act—

- (a) “Rs. 5” shall be substituted for “Rs. 4” in the fifth column as the rate of duty to be levied and collected per Imperial gallon or six quart bottles of “Liqueurs;” and
- (b) for the following, namely :—

No.	Names of Articles.	Per.	Tariff valuation.	Rate of duty.
*	* Spirit when so used in a proportion of twenty per cent. and upwards. Spirit, perfumed, in wood, or in bottles containing more than four ounces. Spirit, other sorts ..	* Imperial gallon or six quart bottles of the strength of London proof Do. .. Do. ..	*	* Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.

there shall be substituted the following, namely :—

No.	Names of Articles.	Per.	Tariff valuation.	Rate of duty.
*	* Spirit when so used in a proportion of twenty per cent. and upwards. Spirit, perfumed, in wood or in bottles. Spirit, other sorts ..	* Imperial gallon or six quart bottles of the strength of London proof. Imperial gallon or six quart bottles. Imperial gallon or six quart bottles of the strength of London proof.	*	* Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof. Rs. 7-8. Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

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ACT No. III OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th January 1887.)

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue Officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

New section substituted
for section 125 of the Evi-
dence Act.

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

“125. No Magistrate or Police Officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue Officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Information as to com-
mission of offences.

“*Explanation.*—‘Revenue Officer’ in this section means any officer employed in or about the business of any branch of the public revenue.”

MADRAS: PRINTED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

[PRICE, 6 PIES.]

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ACT No. V OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th January 1887.)

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (o), of the said Code, there shall be substituted for the word "therefrom" the words "from the station-house," and for the words "present at the Police-station" the words "present at the station-house."

Amendment of section 4.

Amendment of section 312.

2. In section 312 of the said Code the word "four" shall be substituted for the word "two."

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ACT No. VI OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th February 1887.)

An Act to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows :—

Insertion of new section
after section 200.

I. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely :—

Priority of debts.

“ 200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

- “(a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;
- “(b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and
- “(c) all wages of any laborer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

“(2) The

“(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.”

ACT No. VII OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th February 1887.)

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

1. This Act may be called the Suits Valuation Act, 1887.

Title.

PART I.

SUITS RELATING TO LAND.

Extent and commencement of Part I.

2. This Part shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the *Gazette of India*, directs.

Power for Local Government to make rules determining value of land for jurisdictional purposes.

3. (1) The Local Government may, with the previous sanction of the Governor-General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

4. Where

4. Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories.

PART II.

OTHER SUITS.

7. This Part extends to the whole of British India, and shall come into force on the first day of July 1887.

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court fees and the value for purposes of jurisdiction shall be the same.

9. When the subject-matter of suits of any class other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

10. Section 32 of the Punjab Courts Act, 1884, is hereby repealed.

PART III.

SUPPLEMENTAL PROVISIONS.

11. (1) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with

with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

- (a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or
- (b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(5) This section extends to the whole of British India, and shall come into force on the first day of July 1887.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

- (a) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or
- (b) with respect to any appeal arising out of any such suit.

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D.L. Hoff

ACT No. VIII OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th February 1887.)

An Act to abolish Military Courts of Requests as established by Indian Military Law.

WHEREAS it is expedient to repeal that portion of the Indian Military Law which relates to Military Courts of Requests and other military tribunals having jurisdiction with respect to actions of a civil nature ; It is hereby enacted as follows :—

1. This Act shall come into force on the first day of April 1887.
2. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

Number and Year.	Subject or Title.	Extent of repeal.
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.		
Act XI of 1841 ..	Military Courts of Requests for Native Officers and Soldiers.	So far as it has not been repealed.
Act XII of 1842 ..	Regulation of Military Bazaars and Liabilities of Camp-followers.	So far as it has not been repealed.

ACTS

ACT No. VIII of 1887.

Number and Year.	Subject or Title.	Extent of repeal.
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL— <i>continued</i> .		
Act XXXIII of 1852.	Enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	So far as it has not been repealed.
Act III of 1859	Conferment of Civil Jurisdiction in certain cases on Cantonment Joint Magistrates.	So far as it has not been repealed.
Act XII of 1868	Suspension of operation of section 17, Act XI, 1841.	The whole.
Act XV of 1874	Laws Local Extent Act, 1874.	Clauses (e) and (h) of section 8; so much of the first schedule as relates to Acts XI of 1841, XII of 1842, XXXIII of 1852, and III of 1859; and so much of the second schedule as relates to Act XIV of 1855.
Act III of 1880	Cantonments	Section 8.
Act XIV of 1882	Code of Civil Procedure	Clause (b) of section 6.
ACT OF THE GOVERNOR OF MADRAS IN COUNCIL.		
Act I of 1866	Cantonments	Section 9, down to and inclusive of the words "provided also that."
BENGAL REGULATION.		
XX of 1810	Military Bazaars	Section 1, from and inclusive of the words "and it has further been deemed expedient, for the ease and security of dealers" down to and inclusive of the words "such retainers or traders."
BOMBAY REGULATION.		
XXII of 1827	Military Authority	The following portions so far as they have not been repealed, namely:— (a) the first clause of section 3; (b) the first twenty-seven words of the second clause of that section; (c) section 7; and (d) section 32.

Handwritten signatures and initials.

ACT No. IX of 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th February 1887.)

THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

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THE

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency Towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887.
Title, extent and commencement. (2) It extends to the whole of British India ; and
 (3) It shall come into force on the first day of July 1887.
2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.
Repeal. (2) But all Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. 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*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.
 (3) Any enactment or document referring to Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Savings.

3. Nothing in this Act shall be construed to affect—
 (a) any proceedings before or after decree in any suit instituted before the commencement of this Act ; or
 (b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Panchayats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879 ; or
 (c) any local law or any special law other than the Code of Civil Procedure.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.
Definition.

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CONSTITUTION OF COURTS OF SMALL CAUSES.

5. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(2) If

(2) If they differ on any matter other than a matter specified in sub-section (1) the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, as amended by this Act, shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (3) and (4), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If,

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds, and in the same manner as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

24. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

25. The

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

26. In the second schedule to the Code of Civil Procedure—

Amendment of the second schedule to the Code of Civil Procedure.

(a) for "Chapter VIII.—Section III, Set-off" the following shall be substituted, namely:—

"Chapter VIII.—Of Written Statements and Set-off;"

(b) the following shall be inserted between the portion of the schedule referring to Chapter XV and that referring to Chapter XVII, namely:—

"Chapter XVI.—Of Affidavits;"

(c) in the particulars against Chapter XIX, for "275 to 280 (both inclusive), 283" the following shall be substituted, namely:—

"275 to 283 (both inclusive);"

(d) for "Chapter XLVII.—Of Review of Judgment" the following shall be substituted, namely:—

"Chapter XLVII.—Of Review of Judgment, sections 623, 626 and 630;"

(e) for "Chapter XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive)" the following shall be substituted, namely:—

"Chapter XLIX.—Miscellaneous."

Finality of decrees and orders.

27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

(a) keep such registers, books and accounts as the High Court from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

31. (1) Nothing

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (1) So much of Chapters III and IV as relates to—

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion of the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

33. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts.

Modification of Code as so applied.

34. Notwithstanding anything in the last two foregoing sections—

- (a) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or
- (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

35. (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceedings in relation to the case, whether before or after decree, which, if the Court had

Continuance of proceedings of abolished Courts.

had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Amendment of Indian Limitation Act.

36. In the third division of the second schedule to the Indian Limitation Act, 1877,—

(a) after No. 160 the following shall be inserted, namely :—

“160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction. Ditto .. The date of the decree or order.”

and (b) in No. 173, the words, figures and letter “No. 160A and” shall be inserted before the word and figures “No. 162.”

Publication of certain orders.

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XI of 1865 ..	Mufassal Small Cause Courts Act.	So much as has not been repealed.
Act VI of 1871 ..	Bengal Civil Courts Act ..	Section 30.
Act III of 1873 ..	Madras Civil Courts Act ..	Section 29, paragraph 1.
Act XV of 1874 ..	Laws Local Extent Act ..	So much of the first schedule as relates to Acts XI of 1865 and X of 1867.
Act XII of 1881 ..	North-Western Provinces Rent Act.	In section 2, the words and figures “and Act No. XI of 1865, section 52.”
Regulation I of 1877.	Ajmere Courts Regulation ..	Section 33.

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See section 15.)

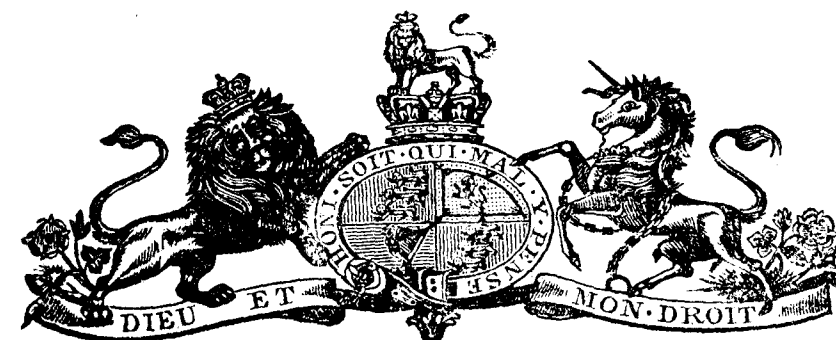
- (1) A suit concerning an act or order purporting to be done or made by the Governor-General in Council or a Local Government, or by the Governor-General or a Governor, or by a Member of the Council of the Governor-General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor-General in Council or a Local Government;
- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office;

(3) a

- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;
- (4) a suit for the possession of immovable property or for the recovery of an interest in such property;
- (5) a suit for the partition of immovable property;
- (6) a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage;
- (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immovable property;
- (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto;
- (9) a suit concerning the liability of land to be assessed to land-revenue;
- (10) a suit to restrain waste;
- (11) a suit for the determination or enforcement of any other right to or interest in immovable property;
- (12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office;
- (13) a suit to enforce payment of the allowance or fees respectively called *mālikāna* and *hakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immovable property or in an hereditary office or in a shrine or other religious institution;
- (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation;
- (15) a suit for the specific performance or rescission of a contract;
- (16) a suit for the rectification or cancellation of an instrument;
- (17) a suit to obtain an injunction;
- (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;
- (19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure;
- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure;
- (21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian;
- (22) a suit for property which the plaintiff has conveyed while insane;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;
- (24) a suit to contest an award;
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India;
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;
- (27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets;
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;
- (29) a suit—
 - (a) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution;
 - (b) for an account of partnership transactions; or
 - (c) for a balance of partnership account, unless the balance has been struck by the parties or their agents;
- (30) a suit for an account of property and for its due administration under decree;
- (31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant;
- (32) a suit for a general average loss or for salvage;

(33) a

- (33) a suit for compensation in respect of collision between ships;
- (34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;
- (35) a suit for compensation—
 - (a) for loss occasioned by the death of a person caused by actionable wrong;
 - (b) for wrongful arrest, restraint or confinement;
 - (c) for malicious prosecution;
 - (d) for libel;
 - (e) for slander;
 - (f) for adultery or seduction;
 - (g) for breach of contract of betrothal or promise of marriage;
 - (h) for inducing a person to break a contract made with the plaintiff;
 - (i) for obstruction of an easement or diversion of a watercourse;
 - (j) for illegal, improper or excessive distress or attachment;
 - (k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code; or
 - (l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;
- (36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;
- (37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce;
- (38) a suit relating to maintenance;
- (39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village community or to his heir or other successor in title;
- (40) a suit for profits payable by the representative of a village community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;
- (41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family;
- (42) a suit by one of several joint mortgagors of immovable property for contribution in respect of money paid by him for the redemption of the mortgaged property;
- (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;
- (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th February 1887, and is hereby promulgated for general information:—

ACT No. IX of 1887.

THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

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THE

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency Towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887.
Title, extent and commencement. (2) It extends to the whole of British India ; and
(3) It shall come into force on the first day of July 1887.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.
Repeal. (2) But all Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. 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*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.
(3) Any enactment or document referring to Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. Nothing in this Act shall be construed to affect—
Savings. (a) any proceedings before or after decree in any suit instituted before the commencement of this Act ; or
(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Panchayats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879 ; or
(c) any local law or any special law other than the Code of Civil Procedure.

4. In this Act, unless there is something repugnant in the subject or context,
Definition. "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

5. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(2) If

(2) If they differ on any matter other than a matter specified in sub-section (1) the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, as amended by this Act, shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (3) and (4), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If,

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds, and in the same manner as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

24. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

25. The

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

26. In the second schedule to the Code of Civil Procedure—
Amendment of the second schedule to the Code of Civil Procedure.
 (a) for “Chapter VIII.—Section III, Set-off” the following shall be substituted, namely :—
 “Chapter VIII.—Of Written Statements and Set-off;”
 (b) the following shall be inserted between the portion of the schedule referring to Chapter XV and that referring to Chapter XVII, namely :—
 “Chapter XVI.—Of Affidavits;”
 (c) in the particulars against Chapter XIX, for “275 to 280 (both inclusive), 283” the following shall be substituted, namely :—
 “275 to 283 (both inclusive);”
 (d) for “Chapter XLVII.—Of Review of Judgment” the following shall be substituted, namely :—
 “Chapter XLVII.—Of Review of Judgment, sections 623, 626 and 630;”
 and
 (e) for “Chapter XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive)” the following shall be substituted, namely :—
 “Chapter XLIX.—Miscellaneous.”

Finality of decrees and orders.
27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.
28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—
 (a) keep such registers, books and accounts as the High Court from time to time prescribes, and
 (b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.
 (2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

31. (1) Nothing

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (1) So much of Chapters III and IV as relates to—

(a) the nature of the suits cognizable by Courts of Small Causes,
 (b) the exclusion of the jurisdiction of other Courts in those suits,
 (c) the practice and procedure of Courts of Small Causes,
 (d) appeal from certain orders of those Courts and revision of cases decided by them, and
 (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,
 applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

Application of Act and Code to Court so invested as to two Courts.
33. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts.

Modification of Code as so applied.
34. Notwithstanding anything in the last two foregoing sections—

(a) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or
 (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

Continuance of proceedings of abolished Courts.
35. (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceedings in relation to the case, whether before or after decree, which, if the Court

had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Amendment of Indian Limitation Act. **36.** In the third division of the second schedule to the Indian Limitation Act, 1877,—

(a) after No. 160 the following shall be inserted, namely :—

“ 160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction. Ditto .. The date of the decree or order.”

and (b) in No. 173, the words, figures and letter “ No. 160A and ” shall be inserted before the word and figures “ No. 162.”

Publication of certain orders. **37.** All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XI of 1865 ..	Mufassal Small Cause Courts Act.	So much as has not been repealed.
Act VI of 1871 ..	Bengal Civil Courts Act ..	
Act III of 1873 ..	Madras Civil Courts Act ..	
Act XV of 1874 ..	Laws Local Extent Act ..	
Act XII of 1881 ..	North-Western Provinces Rent Act.	In section 2, the words and figures “ and Act No. XI of 1865, section 52.”
Regulation I of 1877.	Ajmere Courts Regulation ..	

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See section 15.)

- (1) A suit concerning an act or order purporting to be done or made by the Governor-General in Council or a Local Government, or by the Governor-General or a Governor, or by a Member of the Council of the Governor-General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor-General in Council or a Local Government ;
- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office ;

(3) a

- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office ;
- (4) a suit for the possession of immovable property or for the recovery of an interest in such property ;
- (5) a suit for the partition of immovable property ;
- (6) a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage ;
- (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immovable property ;
- (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto ;
- (9) a suit concerning the liability of land to be assessed to land-revenue ;
- (10) a suit to restrain waste ;
- (11) a suit for the determination or enforcement of any other right to or interest in immovable property ;
- (12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office ;
- (13) a suit to enforce payment of the allowance or fees respectively called *mālikāna* and *hakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immovable property or in an hereditary office or in a shrine or other religious institution ;
- (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation ;
- (15) a suit for the specific performance or rescission of a contract ;
- (16) a suit for the rectification or cancellation of an instrument ;
- (17) a suit to obtain an injunction ;
- (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution ;
- (19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure ;
- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure ;
- (21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian ;
- (22) a suit for property which the plaintiff has conveyed while insane ;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity ;
- (24) a suit to contest an award ;
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India ;
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure ;
- (27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets ;
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate ;
- (29) a suit—
 - (a) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution ;
 - (b) for an account of partnership transactions ; or
 - (c) for a balance of partnership account, unless the balance has been struck by the parties or their agents ;
- (30) a suit for an account of property and for its due administration under decree ;
- (31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant ;
- (32) a suit for a general average loss or for salvage ;

(33) a

- (33) a suit for compensation in respect of collision between ships;
 (34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;
 (35) a suit for compensation—
 (a) for loss occasioned by the death of a person caused by actionable wrong;
 (b) for wrongful arrest, restraint or confinement;
 (c) for malicious prosecution;
 (d) for libel;
 (e) for slander;
 (f) for adultery or seduction;
 (g) for breach of contract of betrothal or promise of marriage;
 (h) for inducing a person to break a contract made with the plaintiff;
 (i) for obstruction of an easement or diversion of a watercourse;
 (j) for illegal, improper or excessive distress or attachment;
 (k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code; or
 (l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;
 (36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;
 (37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce;
 (38) a suit relating to maintenance;
 (39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village community or to his heir or other successor in title;
 (40) a suit for profits payable by the representative of a village community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;
 (41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family;
 (42) a suit by one of several joint mortgagors of immovable property for contribution in respect of money paid by him for the redemption of the mortgaged property;
 (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;
 (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Acting Chief Secretary.

ACT No. X OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th February 1887.)

THE NATIVE PASSENGER SHIPS ACT, 1887.

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SCHEDULE—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Native Passenger Ships Act, 1887.
2. (1) It extends to the whole of British India, and applies—
 (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;
 (b) to

- (b) to all native Indian subjects of Her Majesty without and beyond British India; and,
 (c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa.

(2) But it does not apply—

- (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or
 (ii) to any other ship for the time being in the service of Her Majesty, or
 (iii) to any ship-of-war belonging to any Foreign Prince or State, or
 (iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or
 (v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

Commencement. 3. This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.

Repeal. 4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions. 5. In this Act, unless there is something repugnant in the subject or context,—

(1) "ship" means a ship to which this Act applies:

(2) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(3) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(4) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(5) "voyage,"

(5) "voyage," when used without the prefix "long" or "short," means the whole distance between the ship's port or place of departure and her final port or place of arrival:

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(7) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

11. The second of the certificates (hereinafter called "certificate B") shall state—

- (a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;
 (b) that she has the proper complement of officers and seamen;
 (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board.

board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;

- (d) that the master holds certificate A;
- (e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;
- (f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and
- (g) such other particulars, if any, as may be prescribed by those rules.

Grant of certificates.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Substitute for certificate A.

13. Where the master of a ship produces to that officer either of the following certificates, namely,—

- (a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or
- (b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make:

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Copy of certificates to be exhibited.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

Supply by passengers of their own food.

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. (1) For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

Space to be available for passengers.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board

board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules :

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor-General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking additional passengers at intermediate place.

24. (1) In either of the following cases, namely,—

- (a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to be propelled by steam.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

Certain ships to carry medical officer.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bill of health at Aden.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favor of the Secretary of State for India in Council a joint and several bond for the sum of five thousand rupees, conditioned—

Bond where ship clears for port in Red Sea.

- (a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and
- (b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor-General in Council may make under this Act.

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

Power for Local Government to direct medical inspection of passengers.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or willfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19, or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

36. If

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

42. If

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Procedure.

46. (1) Offences against this Act shall be punishable by a Magistrate.
(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the chief Customs-officer.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

50. (1) Whenever

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British Consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or Consular officer;
- (b) it was made in the presence of the person accused; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or Consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

53. (1) The

Power for Governor-General in Council and Local Government to make rules.

53. (1) The Governor-General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters :—

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment of officers.

55. The Governor-General in Council may declare, by notification in the *Gazette of India*, what shall be deemed to be, for the purposes of this Act, “seasons of fair weather” and “seasons of foul weather,” and, for sailing-ships and steam-ships respectively, a “long voyage” and a “short voyage.”

Power to declare what shall be deemed “seasons of fair weather” and “long voyages.”

56. The Governor-General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers ; and the order shall be alternative to, or override, as the Governor-

Power to prescribe space to be available for passengers.

Governor-General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

57. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

Number and year.	Title.	Extent of repeal.
VIII of 1876	Native Passenger Ships Act, 1876	The whole.
XVII of 1883	Native Passenger Ships Act, 1883	The whole.
VII of 1884	Indian Steam-ships Act, 1884	Section 41.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th February 1887, and is hereby promulgated for general information :—

ACT No. X of 1887.

THE NATIVE PASSENGER SHIPS ACT, 1887.

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SCHEDULE—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Native Passenger Ships Act, 1887.
2. (1) It extends to the whole of British India, and applies
 - (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;
 - (b) to

(b) to all native Indian subjects of Her Majesty without and beyond British India; and,

(c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa.

(2) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or

(v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

Commencement. 3. This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.

Repeal. 4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions. 5. In this Act, unless there is something repugnant in the subject or context,—

(1) "ship" means a ship to which this Act applies:

(2) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(3) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(4) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(5) "voyage,"

(5) "voyage," when used without the prefix "long" or "short," means the whole distance between the ship's port or place of departure and her final port or place of arrival:

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(7) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

11. The second of the certificates (hereinafter called "certificate B") shall state—

- the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;
- that she has the proper complement of officers and seamen;
- that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board

board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;

(d) that the master holds certificate A;

(e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(g) such other particulars, if any, as may be prescribed by those rules.

Grant of certificates.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Substitute for certificate A.

13. Where the master of a ship produces to that officer either of the following certificates, namely,—

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be

Survey of ship.

surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make:

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Copy of certificates to be exhibited.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

Supply by passengers of their own food.

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. (1) For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

Space to be available for passengers.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board

board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor-General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking additional passengers at intermediate place.

24. (1) In either of the following cases, namely,—

- (a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to carry medical officer.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bond where ship clears for port in Red Sea.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favor of the Secretary of State for India in Council a joint and several bond for the sum of five thousand rupees, conditioned—

- (a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and
- (b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor-General in Council may make under this Act.

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or willfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19, or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

36. If

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

42. If

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Procedure.

46. (1) Offences against this Act shall be punishable by a Magistrate.
(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the chief Customs-officer.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

50. (1) Whenever

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding; any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British Consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or Consular officer;
- (b) it was made in the presence of the person accused; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or Consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

53. (1) The

Power for Governor-General in Council and Local Government to make rules.

53. (1) The Governor-General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters :—

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment of officers.

55. The Governor-General in Council may declare, by notification in the *Gazette of India*, what shall be deemed to be, for the purposes of this Act, “ seasons of fair weather ” and “ seasons of foul weather,” and, for sailing-ships and steam-ships respectively, a “ long voyage ” and a “ short voyage.”

Power to declare what shall be deemed “ seasons of fair weather ” and “ long voyages.”

56. The Governor-General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers ; and the order shall be alternative to, or override, as the Governor-

Power to prescribe space to be available for passengers.

Governor-General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

57. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

Power to exempt ship from provisions of Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

Number and year.	Title.	Extent of repeal.
VIII of 1876	Native Passenger Ships Act, 1876	The whole.
XVII of 1883	Native Passenger Ships Act, 1883	The whole.
VII of 1884	Indian Steam-ships Act, 1884	Section 41.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Acting Chief Secretary.

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ACT No. XIII OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th March 1887.)

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes ;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use ;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Electricity Act, 1887.
- (2) It shall extend to the whole of British India; and
- (3) It shall come into force on the first day of July 1887.

2. In this Act, unless there is something repugnant in the

Definitions.

subject or context,—

(1) "electricity" includes galvanism, magnetism, magneto-electricity and electro-magnetism :

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act:

(3) "purpose" includes any purpose except the transmission of a message : and

(4) "vessel" includes anything used for the conveyance by water of human beings

or of property.

Notice of intention to
supply or use electricity.

3. In either of the following cases, namely :—

(a) if a person intends to undertake the business of supplying electricity, or
(b) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected,

or

[PRICE, 6 PIER.]

or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate or, in a Presidency town, to the Commissioner of Police.

Power to make rules. 4. (1) The Governor-General in Council may make such rules as he thinks expedient—

- (a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and
- (b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorise, or empower a Local Government or other authority to authorise, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor-General in Council, and shall be of the same force as if enacted by this Act.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without giving the notice required by that section,

Penalties. or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a Presidency town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues.

Exercise for the purposes of the Government of the powers of the telegraph authority. 6. The Governor-General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 21st October 1887, and is hereby promulgated for general information:—

ACT No. XX OF 1887.

An Act for the protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game;

And whereas it is expedient that Local Governments and cantonment authorities as well as municipal authorities should be empowered to make such rules;

It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Wild Birds Protection Act, 1887;

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Definitions. 2. In this Act—

(1) "municipal authority" means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force;

(2) "cantonment authority" means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment; and

(3) "wild bird" includes a peacock and every bird of game.

Power to make rules. 3. (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment authority of any municipality or cantonment, may from time to time make rules—

(a) defining the expression "wild bird" for the purposes of this Act in its application to the municipality or cantonment;

(b) defining

- (b) defining for those purposes the breeding season of any kind of wild bird ;
and
(c) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(3) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (5) of section 6 of the General Clauses Act, 1887.

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment authority, may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Ag. Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 21st October 1887, and is hereby promulgated for general information :—

ACT No. XXI OF 1887.

An Act to provide for the establishment of Bonded Warehouses at places other than Customs Ports.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs ports; It is hereby enacted as follows:—

1. (1) This Act may be called the Inland Bonded Warehouses Act, 1887 ;
(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878 ; and
(3) It shall come into force at once.
2. (1) Notwithstanding anything in the Sea Customs Act, 1878, the chief Customs authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.
(2) In reference to such a place and the warehouse appointed or licensed thereat, the provisions of the said Act with respect to the levy of customs duties on goods brought in bond from one customs port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Ag. Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 27th January 1888, and is hereby promulgated for general information:—

ACT No. I of 1888.

An Act to amend the Indian Stamp Act, 1879.

WHEREAS it is expedient to amend certain provisions of the Indian Stamp Act, 1879, relating to policies of insurance; It is hereby enacted as follows:—

1. For clause (15) of section 3 of that Act the following shall be substituted, namely:—

“(15) ‘Policy of insurance’ means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;”

“It includes a life-policy, and includes also any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months.”

2. For article 49 of the first schedule to that Act the following shall be substituted, namely:—

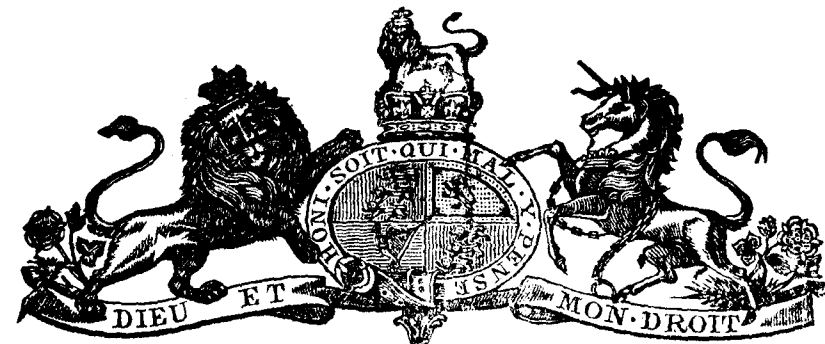
Description of Instrument.	Proper Stamp-duty.	
	If drawn singly.	If drawn in duplicate, for each part.
	RS. A. P.	RS. A. P.
49. Policy of Insurance— <i>See Exemption, Schedule II [No. 14 (a)].</i>		
(a) In the case of sea insurance—		
When the amount insured does not exceed .. 1,000	0 4 0	0 2 0
And for every further sum of Rs. 1,000 or part thereof in excess of 1,000	0 4 0	0 2 0

Description of Instrument.	Proper Stamp-duty.										
49. Policy of Insurance— <i>continued</i> .											
(b) In the case of fire insurance—											
i. In respect of an original policy for a month or any shorter term—	RS. A. P.										
When the amount insured does not exceed .. 1,000	0 2 0										
And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000	0 2 0										
ii. In respect of an original policy for more than one month but not more than three months—											
When the amount insured does not exceed .. 1,000	0 3 0										
And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000	0 3 0										
iii. In respect of an original policy for more than three months but not more than six months—											
When the amount insured does not exceed .. 1,000	0 4 0										
And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000	0 4 0										
iv. In respect of an original policy for a longer term than six months—											
When the amount insured does not exceed .. 1,000	0 6 0										
And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000	0 6 0										
v. In respect of renewing, for the purpose of keeping in force, a policy which has been granted for six months or any shorter term and in respect of which, and of the previous renewal whereof (if any), there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months.	The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy, and of the previous renewal thereof (if any); whichever is the smaller sum.										
	<table> <tr> <th>If drawn singly.</th><th>If drawn in duplicate, for each part.</th></tr> <tr> <th>RS. A. P.</th><th>RS. A. P.</th></tr> <tr> <td>(c) In the case of any other insurance—</td><td></td></tr> <tr> <td>When the amount insured does not exceed .. 1,000</td><td>0 6 0</td></tr> <tr> <td>And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000</td><td>0 6 0</td></tr> </table>	If drawn singly.	If drawn in duplicate, for each part.	RS. A. P.	RS. A. P.	(c) In the case of any other insurance—		When the amount insured does not exceed .. 1,000	0 6 0	And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000	0 6 0
If drawn singly.	If drawn in duplicate, for each part.										
RS. A. P.	RS. A. P.										
(c) In the case of any other insurance—											
When the amount insured does not exceed .. 1,000	0 6 0										
And for every further sum of Rs. 1,000 or part thereof in excess of .. 1,000	0 6 0										

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Secretary to Government.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th February 1888, and is hereby promulgated for general information:—

ACT No. II of 1888.

An Act to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows:—

Addition to schedule II, Act XI, 1882. 1. To the second schedule to the Indian Tariff Act, 1882, the following shall be added, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
5	Petroleum, including* also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum. <i>Exception.</i> —Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre or for lubricating purposes.	Imperial gallon.	..	* Six pies.

And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable ; It is further enacted as follows :—

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act.

Commencement of effect
of the addition to the
schedule.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th February 1888, and is hereby promulgated for general information :—

ACT No. III OF 1888.

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members ; It is hereby enacted as follows :—

1. (1) This Act may be called the Police Act, 1888.
- (2) It extends to the whole of British India ; and
- (3) It shall come into force at once.

Title, extent and com-
mencement.

2. (1) Notwithstanding anything in Act XXIV of 1859 (*An Act for the better Regulation of the Police within the territories subject to the Presidency of Fort St. George*), Act V of 1861 (*An Act for the Regulation of Police*), the Bombay District Police Act, 1867, or any Act relating to the police in any presidency-town, the Governor-General in Council may, by notification in the *Gazette of India*, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police-force for service therein.

Constitution of police-
forces for special pur-
poses.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor-General in Council may make in this behalf, be discharged by the Governor-General in Council, or by such Local Government or other authority as the Governor-General in Council may appoint, and the functions of the Inspector-General of Police, Deputy Inspectors-General, Assistant Inspectors-General, District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall,

shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor-General in Council may make in this behalf, members of a police-force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor-General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor-General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

3. Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor-General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities, of a police-officer belonging to that establishment.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd March 1888, and is hereby promulgated for general information :—

ACT No. IV of 1888.

An Act to regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Reserve Forces Act, 1888; and

(2) It shall come into force on such day as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor-General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to

to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

Punishment of certain offences by persons belonging to Reserve Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

- (a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or
- (b) fails without reasonable excuse to comply with any such rule or order, or
- (c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

- (i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or
- (ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

Effect of Act on persons already in the Reserves.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th March 1888, and is hereby promulgated for general information :—

ACT No. V of 1888.

THE INVENTIONS AND DESIGNS ACT, 1888.

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An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs ; It is hereby enacted as follows :—

1. (1) This Act may be called the Inventions and Designs Act, 1888.
- (2) It shall extend to the whole of British India ; and
- (3) It shall come into force on the first day of July 1888.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.
- (2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

- (3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows :—

PART I.—INVENTIONS.

PART II.—DESIGNS.

PART

PART I.

INVENTIONS.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

- (1) "invention" includes an improvement :
- (2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor :
- (3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not :
- (4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term :
- (5) "inventor," "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be :
- (6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :
- (7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance :
- (8) "Secretary" means a Secretary to the Government of India appointed by the Governor-General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary, assistant-secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorised by general or special order of the Governor-General in Council to discharge any of those functions :
- (9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure : and
- (10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

Application for leave to file specification.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor-General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor-General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor-General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon

6. (1) Upon an application under the last foregoing section the Governor-General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor-General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor-General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor-General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor-General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor-General in Council to be identical or so similar as to be practically identical, the Governor-General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor-General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor-General in Council for an enlargement of the time for making the payment.

(4) Thereupon

(4) Thereupon the Governor-General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely :—

(a) the time for making a payment shall not in any case be enlarged for more than three months ; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor-General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor-General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor-General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor-General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor-General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if

the

the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorising the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor-General in Council thinks expedient.

Imposition of conditions with respect to exclusive privilege.

Exclusive privilege to bind the Government.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favor of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor-General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor-General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor-General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

Application for leave to file memorandum or amended specification.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor-General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Effect of amended specification.

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person

Bar to exclusive privilege in certain cases.

20. A person shall not be entitled to an exclusive privilege under this Part—

- (a) if the invention is of no utility, or
- (b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or
- (c) if the applicant is not the inventor thereof, or
- (d) if the original or any amended specification does not fulfil the requirements of this Part, or
- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or
- (f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

Effect of temporary use of invention in public by inventor or by his leave.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

Effect of public use or knowledge of patented invention between application for patent and application to file specification.

25. If

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor-General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor-General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor-General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention, to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule) that is to say:—

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any

33. (1) Any person authorised by the Governor-General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor-General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor-General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct and issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31, or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may

adjudge

adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency : or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient ; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive

exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration of cessation of exclusive privilege.

40. In the following cases, namely :—

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor-General in Council under section 27 to have ceased ;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege ;
- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section ;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38 ;
- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired ;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on or dismiss certain applications.

43. If on the petition of any person interested it is proved to the Governor-General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

Power for Governor-General in Council to require grant of licenses.

- (a) the exclusive privilege is not being worked in British India, or
- (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or
- (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor-General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor-General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

Assignment for particular places.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

Subscription of specifications and applications.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

Verification of applications.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorised by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

Agents.

Fees.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor-General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor-General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor-General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

Definitions.

50. In this Part, unless there is something repugnant in the subject or context,—

(1) “design” means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself:

(2) “copyright” means the exclusive right to apply a design to an article:

(3) the author of any new and original design shall be considered the “proprietor” thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the “proprietor,” and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the “proprietor” of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise: and

(4) “Secretary,” “District Court” and “High Court” have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor-General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor-General in Council may, after such inquiry as he thinks fit, make an order authorising the registration of the design.

(2) When

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word “registered” either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor-General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

58. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

Power to High Court to stay proceedings on, or dismiss, application for rectification of register.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Application to this Part of certain provisions of Part I.

61. The provisions of the following portions of Part I, namely:—

- (a) section 11, with respect to copies of specifications,
 - (b) section 14, with respect to the register of inventions and the matters entered therein, and
 - (c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,
- shall, so far as they can be made applicable, apply, respectively, to—
- (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
 - (b) the register of designs and the matters entered and documents referred to therein, and
 - (c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

Fees.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor-General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor-General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

Rules and forms.

63. The Governor-General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859 ..	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872 ..	Patterns and Designs Protection Act, 1872 ..	
XVI of 1883 ..	Protection of Inventions Act, 1883 ..	The whole.
I of 1879 ..	Indian Stamp Act, 1879 ..	Article 48, Schedule I.

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

Acquisition of copyright.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

Marking registered designs.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Effect of exhibiting unregistered designs at exhibitions.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor-General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

Mutation of names in register of designs.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

Suit for infringement of copyright.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

Registration of cessation of copyright.

58. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

Rectification of register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on, or dismiss, application for rectification of register.

Application to this Part of certain provisions of Part I.

61. The provisions of the following portions of Part I, namely:—

- (a) section 11, with respect to copies of specifications,
 - (b) section 14, with respect to the register of inventions and the matters entered therein, and
 - (c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,
- shall, so far as they can be made applicable, apply, respectively, to—
- (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
 - (b) the register of designs and the matters entered and documents referred to therein, and
 - (c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor-General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor-General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

63. The Governor-General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

Rules and forms.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859 ..	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872 ..	Patterns and Designs Protection Act, 1872 ..	Do.
XVI of 1883 ..	Protection of Inventions Act, 1883 ..	The whole.
I of 1879 ..	Indian Stamp Act, 1879 ..	Article 48, Schedule I.

THE

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR-GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR-GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the *day of*, and actually sealed on the *day of*, for (*state the title of the invention*).

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE FOURTH SCHEDULE.

FEEs (Inventions.)

(See sections 8, 15 and 48.)

	RS.	A.	P.
(1) in respect of an application for leave to file a specification (section 5) ..	10	0	0
(2) in respect of the filing of a specification (section 8) ..	30	0	0
(3) in respect of an extension of the time for filing a specification (section 8) ..	20	0	0

(4) in

	RS.	A.	P.
(4) in respect of the continuance of an exclusive privilege (section 8)—			
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof ..	50	0	0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date ..	50	0	0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date ..	50	0	0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date ..	50	0	0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date ..	50	0	0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date ..	100	0	0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date ..	100	0	0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date ..	100	0	0
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date ..	100	0	0
(j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date ..	100	0	0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—			
(i) if the enlargement does not exceed one month ..	10	0	0
(ii) if the enlargement exceeds one month, but does not exceed two months ..	25	0	0
(iii) if the enlargement exceeds two months ..	50	0	0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15) ..	50	0	0
(7) in respect of an order extending the term of an exclusive privilege (section 15) ..	100	0	0
(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15) ..	100	0	0
to be paid before the expiration of each year of the extended term :			
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.			
(9) in respect of an application for leave to file a memorandum or amended specification (section 18) ..	20	0	0
(10) in respect of a petition to the Governor-General in Council for a compulsory license (section 43) ..	50	0	0
(11) for the inspection of any book or other document which is open to inspection under Part I ..	1	0	0
(12) for copies—			
(a) when the number of words copied does not exceed four hundred ..	1	0	0
(b) for every hundred words in excess of four hundred ..	0	4	0
(c) of drawings or photographs ..	cost according to agreement.		
(13) for certifying copies—			
for every hundred words ..	0	2	0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

- The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.
1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.
 2. To the best of his information and belief, that design is within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.
 3. copies of (*drawings*), (*photographs*), (*tracings*) of the design accompany this application.
 4. The following is a statement of the nature of the design (*here describe its nature*).
 5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.
- (Signature.)

THE SIXTH SCHEDULE.

FEES (*Designs.*)

(See section 62.)

	RS.	A.	P.
(1) in respect of an application for an order for the registration of a design (section 51) ..	10	0	0
(2) in respect of a mutation of names in the register of designs (section 56) ..	5	0	0
(3) for the inspection of any book or other document which is open to inspection under Part II ..	1	0	0
(4) for copies—			
(a) when the number of words copied does not exceed four hundred ..	1	0	0
(b) for every hundred words in excess of four hundred ..	0	4	0
(c) of drawings, photographs or tracings ..	cost according to agreement.		
(5) for certifying copies—			
for every hundred words ..	0	2	0

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd March 1888, and is hereby promulgated for general information :—

ACT No. VI of 1888.

An Act to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows :—

1. (1) This Act may be called the Debtors Act, 1888;
- and
- (2) It shall come into force at once.
- (3) The several portions thereof have the same local extent as the enactments to which they respectively relate.
2. After section 245 of the Code of Civil Procedure the following sections shall be inserted, namely :—
- “ 245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.
- “ 245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.
- “ (2) If appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.”
3. In

Amendment of section 250 of the Code.

3. In section 250 of the said Code, between the word "shall" and the word "issue," the following shall be inserted, namely:—

"subject to the provisions of sections 245A and 245B,".

Addition of new section after section 337 of the Code.

4. After section 337 of the said Code the following shall be inserted, namely:—

Proceedings on appearance of judgment-debtor in obedience to notice under section 245B, or after arrest in execution of decree for money.

"337A. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 254B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

"(2) Before making an order under sub-section (1), the Court may take into consideration any allegation of the decree-holder touching any of the following matters, namely:—

- (a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;
- (b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree;
- (c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;
- (d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it;
- (e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

"(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

"(4) A judgment-debtor released under this section may be re-arrested.

"(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail."

Addition to section 380 of the Code.

5. To section 380 of the said Code the following shall be added, namely:—

"On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit."

6. In

6. In section 640 of the said Code, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added.

Amendment of section 640 of the Code.

7. In section 642 of the said Code, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely:—

"except as provided in section 337A, sub-section (5), and sections 256 and 643."

Addition of new section after section 652 of the Code.

8. After section 652 of the said Code the following shall be added, namely:—

"653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

- (a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or
- (b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

"(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

Repeal of other enactments.

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the whole of section 31 of the Ajmere Courts Regulation, 1877, are hereby repealed.

Amendment of parts of Madras Act VIII of 1865 and India Act XII of 1881.

10. (1) For the first fifty-five words of section 48 of the Act of the Governor of Fort St. George in Council, No. VIII of 1865, the following shall be substituted, namely:—

"No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees."

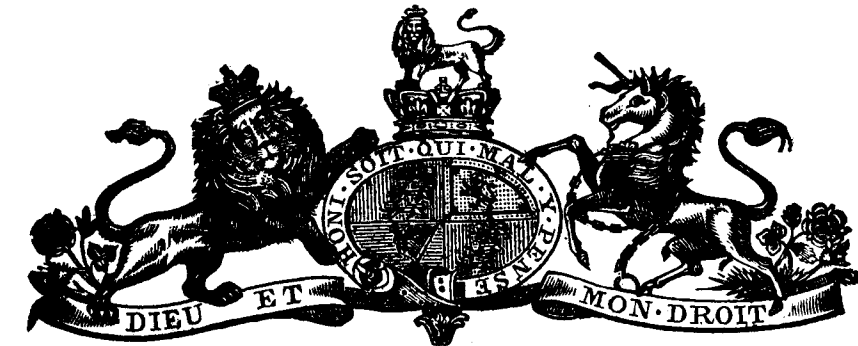
(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

"Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case."

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd March 1888, and is hereby promulgated for general information :—

ACT No. VII of 1888.

An Act to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

WHEREAS it is expedient to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888 ; and

(2) It shall come into force on the first day of July 1888.

2. (1) In this Act, unless there is something repugnant in the subject or context, “section” means a section, “schedule” a schedule, and “Chapter” a Chapter, of the Code of Civil Procedure.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

Addition of new section after section 4.

3. The following shall be inserted after section 4, namely :—

“4A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them

them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

“(2) ‘Revenue Court’ in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force.”

Repeal of part of section 8.

4. The second paragraph of section 8 is hereby repealed.

Addition to section 14.

5. To section 14 the following shall be added, namely :—

“Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed.”

Addition of new section after section 16.

6. The following shall be inserted after section 16, namely :—

“16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction :

“Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

“(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto.”

Addition to section 17.

7. In section 17, after Explanation II, the following shall be inserted, namely :—

“EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely :—

- (i) the place where the contract was made ;
- (ii) the place where the contract was to be performed or performance thereof completed ;
- (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.”

8. In section 27 there shall be inserted after the words “the Court may” the words “at any stage of the suit,” and after the words “any other person or persons” the words “with his or their consent.”

Amendment of section 27.

Substitution of new section for section 53.

9. For section 53 the following shall be substituted, namely :—

When plaint may be rejected, returned for amendment or amended.

“53. The plaint may, at the discretion of the Court,—

- (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action ;
- (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—
 - (i) is not signed and verified as hereinbefore required,
 - (ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,
 - (iii) is wrongly framed by reason of non-joinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or
 - (iv) is not framed in accordance with the provisions of section 42 ;
- (c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit :

“Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

“When a plaint is amended under this section the amendment shall be attested by the signature of the Judge.”

Substitution of new section for section 72.

10. For section 72 the following shall be substituted, namely :—

“72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

“(2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct.”

Amendment of section 82.

11. In section 82, for the first twenty words the following shall be substituted, namely :—

“When a summons is returned under section 80, the Court shall, if the return under that section has not been verified by the affidavit of the serving-officer, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings.”

Substitution of new section for section 90.

12. For section 90 the following shall be substituted, namely :—

“90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor-General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the

Service in foreign territory through British Resident or Court.

purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service."

Substitution of new sections for sections 141 and 142. 13. For sections 141 and 142 the following shall be substituted, namely:—

Endorsements on documents admitted in evidence. "141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:—

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

Endorsements on copies of admitted entries in books, accounts and records. "141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or
- (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

Endorsements on documents rejected as inadmissible in evidence. "142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

Recording of admitted and return of rejected documents. "142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

"(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."

Amendment of section 143. 14. In section 143, for the words and figures "sections 62, 141 and 142" there shall be substituted the following, namely:—

"section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."

15. In

Amendment of section 159. 15. In section 159 the words "or sent" shall be inserted after the word "delivered."

Amendment of section 168. 16. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely:—"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court."

Addition of new section after section 185. 17. The following shall be inserted after section 185, namely:—

Power for Local Government to require evidence to be recorded in English. "185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.

"(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

"(3) Evidence taken down under sub-section (1) or sub-section (2) shall be in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

"(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."

Addition to section 191. 18. For section 191 the following shall be substituted, namely:—

Power to deal with evidence taken down by another Judge. "191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

"(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25:

"Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh."

Addition to section 193. 19. To section 193 the following shall be added, namely:—

"A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173."

Amendment of section 209. 20. (1) In section 209, for the first thirteen words the words "When a decree is for the payment of money" shall be substituted.

(2) To the same section the following shall be added, namely:—

"Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

21. (1) In

Amendment of section 216.

21. (1) In section 216, for the first twenty-four words the following shall be substituted, namely :—

“If the defendant has been allowed a set-off against the claim of the plaintiff.”

(2) To the same section the following shall be added, namely :—

“The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise.”

Amendment of section 223.

22. In section 223, for the words “in a case cognizable by a Court of Small Causes” the following shall be substituted, namely :—

“in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes.”

Amendment of section 229.

23. In section 229, after the word “established” the words “or continued” shall be inserted.

Addition of new section after section 229.

24. After section 229 the following shall be inserted, namely :—

“229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor-General in Council in the territories of any Foreign Prince or State to which the Governor-General in Council has, by notification in the *Gazette of India*, declared this section to apply.”

Repeal of part of section 230.

25. The last paragraph of section 230 is hereby repealed.

Amendment of section 244.

26. (1) In section 244, for clause (c) the following shall be substituted, namely :—

“(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof.”

(2) To the same section the following shall be added, namely :—

“If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section.”

Amendment of section 258.

27. For the last paragraph of section 258 the following shall be substituted, namely :—

“Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree.”

Amendment of section 266.

28. (1) In the first proviso to section 266, clause (a), the words “and bedding” shall be inserted after the word “apparel.”

(2) In the same proviso, clause (b), after the word “cattle” the words “and seed-grain” shall be inserted.

(3) In

(3) In the same proviso, for clause (h) the following shall be substituted, namely :—

“(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) the whole of the salary where the salary does not exceed twenty rupees monthly ;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and

(iii) one moiety of the salary in any other case.”

(4) To the same proviso, after clause (l), the following shall be added, namely :—

“(m) any allowance declared by any law passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree ;

“(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue.”

(5) In the Explanation to the same proviso, for the word and letter “and (j)” the letters and word “(j) and (m)” shall be substituted.

Amendment of section 289.

29. In section 289 the words “on the spot where the property is attached” are hereby repealed.

Addition to section 320.

30. To section 320 the following shall be added, namely :—

“Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

“A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

“In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (*An Act for the protection of Judicial Officers*).

31. (1) In section 349, for the words “is under arrest” the words “is in custody under the foregoing provisions of this Code” shall be substituted.

(2) In section 354, between the word “and” and the words “shall operate” the words “every order under that section appointing a Receiver” shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely :—

“A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court.”

(4) At

(4) At the end of Chapter XX the following shall be inserted, namely :—

Inapplicability of this Chapter to Presidency towns.

“360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay.”

Amendment of Chapter XXI.

32. (1) For sections 363 and 364 the following shall be substituted, namely :—

“363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit.”

(2) For section 365 the following shall be substituted, namely :—
“365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit.”

(3) To section 368 the following shall be added, namely :—
“The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon.”

(4) After section 372 the following shall be added, namely :—
“372A. The provisions of section 5 of the Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371.”

Power for Court to extend period of limitation prescribed for certain applications.

Addition to section 381.

33. To section 381 the following shall be added, namely :—
“or show good cause why such time should be extended, in which case the Court may extend it.

“Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

“The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application.

“The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively.”

Amendment of section 386.

34. In section 386, for the words “or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint” the following shall be substituted, namely :—

“or to any pleader or other person whom the Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint.”

35. In

35. In section 419, after the words “Government Pleader in any Court” the words “or such other person as the Local Government may for any Court appoint in this behalf” shall be inserted.

Amendment of section 419.

36. In section 424, after the words “intending plaintiff” the words “and the relief which he claims” shall be inserted.

Amendment of section 424.

37. (1) In section 432, after the words “British India” the following shall be inserted, namely :—

Amendment of section 432.

“or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief.”

(2) To the same section the following shall be added, namely :—

“An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

“A person appointed under this section may authorise or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits.”

Substitution of new section for section 433.

38. For section 433 the following shall be substituted, namely :—

“433. (1) Any such Prince or Chief, and any Ambassador or Envoy of a Foreign State, may, with the consent of the Governor-General in Council, certified by the signature of one of the Secretaries to the Government of India (but not without such consent), be sued in any competent Court.

“(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, Ambassador or Envoy may be sued; but it shall not be given unless the Prince, Chief, Ambassador or Envoy—

- (a) has instituted a suit in the Court against the person desiring to sue him, or
- (b) by himself or another trades within the local limits of the jurisdiction of the Court, or
- (c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

“(3) No such Prince, Chief, Ambassador or Envoy shall be arrested under this Code, and, except with the consent of the Governor-General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, Ambassador or Envoy.

“(4) The Governor-General in Council may, by notification in the *Gazette of India*, authorise a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, Ambassador or Envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor-General in Council and a Secretary to the Government of India, respectively.

“(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, Ambassador or Envoy from whom he holds or claims to hold the property.”

39. (1) Section

39. (1) Section 434 shall become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

Transposition and amendment of section 434.

(2) In section 229B, the words "or continued" shall be inserted after the word "established."

Insertion of new section 434.

Style of Princes and Chiefs as parties to suits.

40. After section 433 the following section shall be inserted, namely:—
"434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State:
"Provided that in giving the consent referred to in the last foregoing section the Governor-General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name."

Addition to section 464.

Princes and Chiefs and wards of Court.

Amendment of section 503.

Amendment of section 504.

Amendment of section 539.

Addition to section 540.

Addition to section 549.

Substitution of new section for section 551.

Power to dismiss appeal without sending notice to Lower Court.

41. To section 464 the following shall be prefixed, namely:—
"Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor-General in Council or a Local Government, in the name of an agent or in any other name, and."
42. In section 503, clause (d), the words "as the Court thinks fit" shall be inserted after the words "by way of remuneration."
43. In section 504, for the words "the Court may appoint the Collector" the words "the Court may, with the consent of the Collector, appoint him" shall be substituted.
44. In section 539, for the words "having a direct interest" the words "having an interest" shall be substituted.
45. To section 540 the following shall be added, namely:—
"An appeal may lie under this section from an original decree passed *ex parte*."
46. To section 549 the following shall be added, namely:—
"If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant."
47. (1) For section 551 the following shall be substituted, namely:—
"551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader.
(2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.
(3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For

(2) For the first paragraph of section 552 the following shall be substituted, namely:—
"Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (2)," shall be inserted before the word and figures "section 556."

Amendment of, and addition to, section 561.

48. (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely:—
"Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

(2) To the same section the following shall be added, namely:—
"Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on the appellant or his pleader, at the expense of the respondent."
"The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section."

49. (1) In section 562 the words "so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties" are hereby repealed.
(2) In the same section, for the word "investigate" the word "determine" shall be substituted.

50. Section 563 is hereby repealed.

51. In section 565, for the word "shall" the word "may" shall be substituted.

52. (1) In section 566 the words "and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question" are hereby repealed.
(2) In the same section, between the words "the Appellate Court may" and the words "frame issues" the words "if necessary" shall be inserted.

53. (1) In section 582, for the words "the words 'plaintiff,' 'defendant' and 'suit' shall be held to include an appellant, a respondent and an appeal, respectively," the following shall be substituted, namely:—
"the word 'plaintiff' shall be held to include a plaintiff-appellant or defendant-appellant, the word 'defendant' a plaintiff-respondent or defendant-respondent, and the word 'suit' an appeal."

(2) In the same section, the words and figures "including those of section 372A," shall be inserted after the words "The provisions hereinbefore contained."

54. To section 584 the following shall be added, namely:—
"An appeal may lie under this section from an appellate decree passed *ex parte*."

55. (1) In section 588, clause (9), for the word "or" the word "for" shall be substituted.

2. In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.

56. The

Repeal of part of section 589. 56. The first paragraph of section 589, and the word "other" in the second paragraph of that section, are hereby repealed.

Repeal of section 599 and part of section 601. 57. Section 599, and in section 601 the words "within thirty days from the date of the order," are hereby repealed.

Addition to section 610. 58. After the second paragraph of section 610 the following shall be inserted, namely :—

"In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant :

"Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety."

Addition to section 626. 59. To section 626 the following proviso shall be added, namely :—

"and

"(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."

Addition of new sections after section 646.

60. After section 646 the following shall be inserted, namely :—

Power to refer to High Court questions as to jurisdiction in small causes. "646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

"(2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes. "646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

"(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

"(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

"(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section."

Amendment of, and addition to, section 648.

61. (1) For the third paragraph of section 648 the following shall be substituted :—

"and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction

satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him."

(2) To section 648 the following shall be added, namely :—

"Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court."

Amendment of section 650A.

62. In section 650A, the words "or continued" shall be inserted after the word "established."

Addition to section 652.

63. To section 652 the following shall be added, namely :—

"A High Court not established under the Statute 24 & 25 Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*), may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

Amendment of form No. 137, Schedule IV.

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person."

Amendment of the Indian Registration Act, 1877.

65. (1) After clause (n) of section 17 of the Indian Registration Act, 1877, as amended by the Indian Registration Act, 1886, the following clause shall be added, namely :—

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879 (*An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877*):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto," signifying ninety days.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed.

(3) For

(3) For No. 171C of the same schedule the following shall be substituted, namely :—

Description of Application.	Period of Limitation.	Time from which period begins to run.
* 171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	* Sixty days.	* The date of the order for abatement or dismissal.

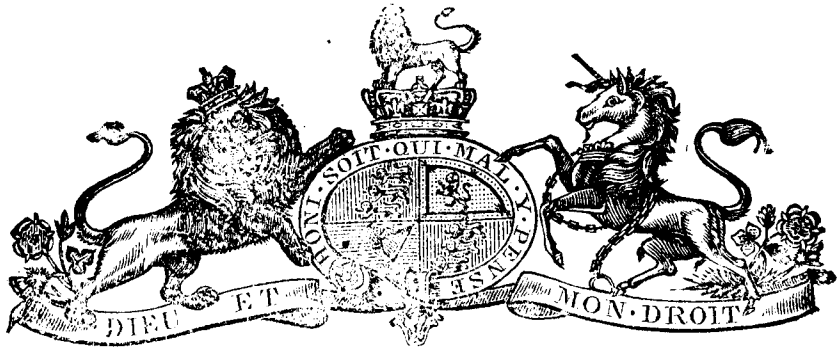
(4) After No. 175 of the same schedule the following shall be inserted, namely :—

Description of Application.	Period of Limitation.	Time from which period begins to run.
* 175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	* Six months.	* The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Do. ..	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Do. ..	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th September 1888, and is hereby promulgated for general information :—

ACT No. VIII of 1888.

An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor-General in Council, No. VIII of 1851 (*An Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV of 1864 (*An Act to amend Act VIII of 1851*); It is hereby enacted as follows :—

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and, from the twenty-first day of August 1857, and the twenty-fourth day of March 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of 1851 and XV of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency," where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All

3. All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied.

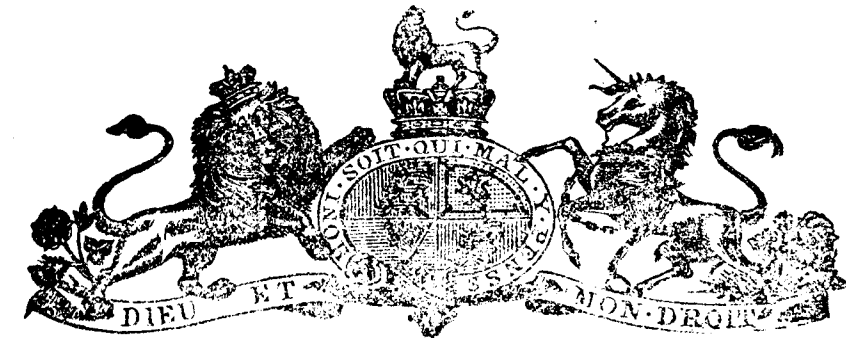
4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July 1888.

5. In section 2 of Act VIII of 1851 the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council."

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th September 1888, and is hereby promulgated for general information:—

ACT No. IX of 1888.

An Act to repeal certain Enactments relating to Contagious Diseases.

WHEREAS it is expedient to repeal certain enactments relating to contagious diseases; It is hereby enacted as follows:—

1. The enactments specified in the schedule are repealed to the extent mentioned in the third column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor-General in Council.</i>		
XIV of 1868 ..	Indian Contagious Diseases Act, 1868.	So much as has not been repealed.
XXVI of 1868 ..	Municipal Lock-hospitals ..	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
IV of 1884 ..	Madras District Municipalities Act, 1884.	The words "the application of the Indian Contagious Diseases Act" in section 113.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 20th September 1888, and is hereby promulgated for general information:—

ACT No. X OF 1888.

An Act to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

Revision of the second
schedule to Act XIV of
1882. 1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

Amendment of Act XV
of 1882. 2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely:—"Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

Addition to section 589,
Act XIV of 1882. 3. To section 589 of the Code of Civil Procedure the following shall be added, namely:—

"Provided

“Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case.”

4. Act VIII of 1880 (*An Act to correct a clerical error in the Indian Limitation Act, 1877*) and section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

Repeal.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See Section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

Preliminary : Sections 1, 2, 3 and 5.

Chapter I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

Chapter II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

Chapter III.—Of Parties and their Appearances, Applications and Acts.

Chapter IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

Chapter V.—Of the Institution of Suits.

Chapter VI.—Of the Issue and Service of Summons, except section 77.

Chapter VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

Chapter VIII.—Of Written Statements and Set-off.

Chapter IX.—Of the Examination of the Parties by the Court, except section 119.

Chapter X.—Of Discovery and the Admission, &c., of Documents.

Chapter XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

Chapter XIII.—Of Adjournments.

Chapter XIV.—Of the Summoning and Attendance of Witnesses.

Chapter XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

Chapter XVI.—Of Affidavits.

Chapter XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

Chapter XVIII.—Of Costs, sections 220, 221 and 222.

Chapter XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to resales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

Chapter XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.

Chapter XXI.—Of the Death, Marriage and Insolvency of Parties.

Chapter XXII.—Of the Withdrawal and Adjustment of Suits.

Chapter XXIII.—Of Payment into Court.

Chapter XXIV.—Of requiring Security for Costs.

Chapter XXV.—Of Commissions, except section 396.

Chapter XXVI.—Suits by Paupers.

Chapter XXVII.—Suits by and against Government or Government Servants.

Chapter XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.

Chapter

Chapter XXIX.—Suits by and against Corporations and Companies.

Chapter XXX.—Suits by and against Trustees, Executors and Administrators.

Chapter XXXI.—Suits by and against Minors and Persons of unsound Mind.

Chapter XXXII.—Suits by and against Military Men.

Chapter XXXIII.—Interpleader.

Chapter XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

Chapter XXXV.—Appointment of Receivers.

Chapter XXXVI.—Reference to Arbitration.

Chapter XXXVII.—Of Proceedings on Agreement of Parties.

Chapter XLVI.—Reference to and Revision by High Court.

Chapter XLVII.—Of Review of Judgment, sections 623, 626 and 630.

Chapter XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

(See Section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

Preliminary : Section 2, Interpretation clause.

Chapter I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

Chapter II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.

Chapter III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

Chapter IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

Chapter V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.

Chapter VI.—Of the Issue and Service of Summons, except, in section 64, the words “and the copies or concise statements required by section 58 have been filed,” and sections 65 and 66.

Chapter VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

Chapter VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

Chapter IX.—Of the Examination of the Parties by the Court, except section 119.

Chapter X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.

Chapter XI.—Settlement of Issues, sections 150 and 151.

Chapter XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.

Chapter XIII.—Of Adjournments.

Chapter XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

Chapter XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.

Chapter XVI.—Of Affidavits.

Chapter XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

Chapter XVIII.—Of Costs.

Chapter XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

Chapter XXI.—Of the Death, Marriage and Insolvency of Parties.

Chapter XXII.—Of the Withdrawal and Adjustment of Suits.

Chapter XXIII.—Of Payment into Court.

Chapter XXIV.—Of requiring Security for Costs.

Chapter

- Chapter XXV.—Of Commissions, except section 396.
 Chapter XXVII.—Suits by or against Government or Public Officers.
 Chapter XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).
 Chapter XXIX.—Suits by and against Corporations and Companies.
 Chapter XXX.—Suits by and against Trustees, Executors and Administrators.
 Chapter XXXI.—Suits by and against Minors and Persons of Unsound Mind.
 Chapter XXXII.—Suits by and against Military Men.
 Chapter XXXIII.—Interpleader.
 Chapter XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.
 Chapter XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.
 Chapter XXXVI.—Appointment of Receivers, section 503.
 Chapter XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.
 Chapter XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.
 Chapter XLVI.—Of Reference to and Revision by High Court.
 Chapter XLIX.—Miscellaneous.

S. HARVEY JAMES,

Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,

Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th October 1888, and is hereby promulgated for general information:—

ACT No. XI of 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows:—

1. The following section shall be added to that Act, namely:—

“34. (1) This Act, in its application to the presidency towns, shall be read as if for the words ‘District Magistrate’ in section 16, sub-section (1), and section 17, sub-sections (2) and (3), for the words ‘Magistrate of the first or second class’ in section 18, sub-section (1), and for the word ‘Magistrate’ in section 18, sub-section (2), there had been enacted the words ‘Commissioner of Police,’ and for the words ‘District Judge’ in section 16, sub-sections (3), (4) and (5), the words ‘Chief Judge of the Court of Small Causes.’

“(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words ‘District Judge,’ wherever they occur in that section, there had been enacted the words ‘Judge of the Court of Small Causes.’

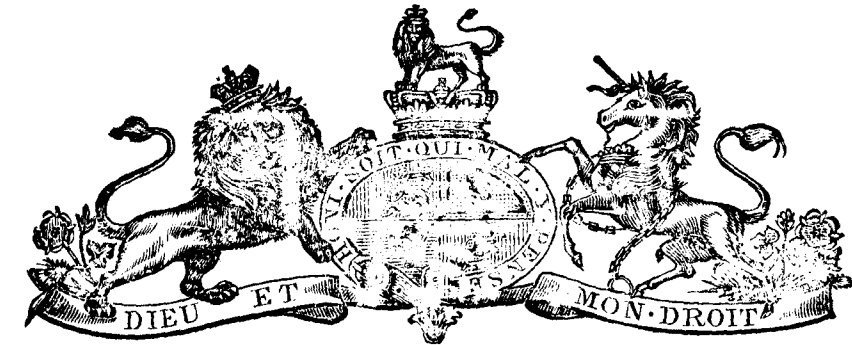
“(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency town, and fees for summonses and other processes

processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882."

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October 1888, and is hereby promulgated for general information :—

ACT No. XVI of 1888.

An Act to repeal certain enactments relating to the purchase of regimental necessities from soldiers.

WHEREAS it is expedient to repeal the enactments specified in the schedule to this Act; It is hereby enacted as follows :—

1. The enactments specified in the schedule are hereby repealed.

SCHEDULE.

Number and year.	Subject or title.	Extent of repeal.
<i>Act of the Governor-General in Council.</i>		
VII of 1867 ..	Purchase of regimental necessities from soldiers.	So much as has not been repealed.
<i>Regulation of the Madras Code.</i>		
XIV of 1832 ..	Purchase of regimental necessities from soldiers.	So much as has not been repealed.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October 1888, and is hereby promulgated for general information :—

ACT No. XVII OF 1888.

An Act to amend the Indian Marine Act, 1887.

WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows :—

Amendment of section 2, Act XIV of 1887. 1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely :—

“ 2. The Governor-General in Council may, by notification in the *Gazette of India*, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression ‘superior officer’ in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.”

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th February 1889, and is hereby promulgated for general information :—

ACT No. II of 1889.

An Act to declare the Imperial Standard Yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Measures of Length Act, 1889;

(2) It extends to the whole of British India; and

(3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor-General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

Measure for determining length of standard yard.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.

Foot and inch.
[PRICE, 2 Annas]

5. Any

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor-General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Presumption in favor of accuracy of certified measures.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Inspection of certified measures by the public.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 1st March 1889, and is hereby promulgated for general information:—

ACT No. IV of 1889.

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Merchandise Marks Act, 1889.

(2) It extends to the whole of British India; and, subject to the provision of the last section of this Act,

(3) It shall come into force on the first day of April 1889.

Definitions.

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

(1) “trade mark” has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

(2) “trade description” means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright;

and

[PRICE, 2 ANNAS.]

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

- (3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:
- (4) "goods" means anything which is the subject of trade or manufacture: and
- (5) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:—

"Of Trade, Property and Other Marks.

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

Trade mark.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for using a false trade mark or property mark.

"483. Whoever

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Counterfeiting a mark used by a public servant.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,
- be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Punishment for making use of any such false mark.

"489. Whoever

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Tampering with property mark with intent to cause injury.

Trade Descriptions.

4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colorable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or
- (c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or
- (d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Penalty for applying a false trade description.

Penalty for selling goods to which a false trade description is applied.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

he shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

Unintentional contravention of the law relating to marks and descriptions.

(a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(b) that he took reasonable precautions against committing the offence charged, and

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture

Forfeiture of Goods.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.
- (2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.
- (3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

- “(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889:
- (e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colorable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—
- (i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and
- (ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark:
- (2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely:—
- “(f) piece-goods, such as are ordinarily sold by length or by the piece, which—
- (i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and
- (ii) have been manufactured beyond the limits of India, or,
- (iii) having

- (iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881.

Addition of a section after section 19, Act VIII of 1878. Sea Customs Act, 1878, namely:—

“19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

“(2) The Governor-General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

“(3) Where there is on any goods a name which is identical with, or a colorable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

“(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

“(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

“(6) All regulations under this section shall be published in the *Gazette of India* and in the *Calcutta, Fort St. George, Bombay and Burma Gazettes*.”

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.
- (2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *prima facie* evidence of the place or country in which the goods were made or produced.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

16. (1) The Governor-General in Council may, by notification in the *Gazette of India* and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

*Transitory**Transitory Provision.*

19. The prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, shall not take effect till the first day of August 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April 1889, remain in abeyance till the first day of July 1889.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 1st March 1889, and is hereby promulgated for general information :—

ACT No. V of 1889.

An Act to abolish the Office of Coroner of Madras.

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, the Coroners Act, 1881, and the Code of Criminal Procedure, 1882; It is hereby enacted as follows :—

1. This Act shall come into force on such day as the Governor of Fort St. George in Council may by notification in the *Fort St. George Gazette* appoint in this behalf.

Commencement.

Amendment of the Coroners Act, 1871.

“3. Within the

Coroners of Calcutta and Bombay.

Amendment of the Coroners Act, 1881.

“Whereas it is expedient to amend the Coroners Act, 1871, in manner hereinafter appearing; It is hereby enacted as follows :—”

(2) Sections 2, 3 and 4 of the Coroners Act, 1881, are hereby repealed.

Amendment of the Code of Criminal Procedure.

(2) Sections 174, 175 and 176 of that Code shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras, be read as follows, namely :—

Enquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police-station.

“174. (1) An officer in charge of a police-station, on receiving information that a person—

(a) has committed suicide, or

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

(c) has

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence, shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of five or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

"(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

"(3) In any of the following cases, namely:—

(a) in any case in which the Local Government may by rule so require,

(b) in any case in which death appears to have been caused by violence or there is any doubt regarding the cause of death,

(c) in any other case in which the police-officer considers it expedient so to do, he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Government.

"(4) The police-officer may, by order in writing, summon five or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(a) the circumstances in which an officer in charge of a police-station, after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (a), clause (b) or clause (c) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(b) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

"(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (a), clause (b) or clause (c), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

"(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 8th March 1889, and is hereby promulgated for general information:—

ACT No. VI of 1889.

An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows:—

1. (1) This Act may be called the Probate and Administration Act, 1889.
- (2) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and
- (3) It shall come into force at once.

Indian Succession Act, 1865.

2. After the 4th clause of the explanation to section 234 of the Indian Succession Act, 1865, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

3. In

Amendment of section
244, Act X, 1865.

3. In section 244 of the same Act, for the words "and that the petitioner is the executor therein named" the following shall be substituted, namely :—

"the amount of assets which are likely to come to the petitioner's hands, and
"that the petitioner is the executor named in the will;"

Amendment of section
254, Act X, 1865.

4. For the last forty-two words of section 254 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section
255, Act X, 1865.

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section
256, Act X, 1865.

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted.

Substitution of new section for section 277, Act X, 1865.

7. For section 277 of the same Act the following shall be substituted, namely :—

"277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

8. In

8. In section 277A of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made," and for the words and figures "the person applying for administration after the first day of April 1875," the word "administrator", shall be substituted.

Amendment of section
277A, Act X, 1865.

Amendment of section
283, Act X, 1865.

9. (1) In section 283 of the same Act, for the words "the country in which he was domiciled" the words "British India" shall be substituted.

(2) The *illustration* to the same section is hereby repealed.

Addition to Act X, 1865.

10. To the same Act the following shall be added, namely :—

"333. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

Probate and Administration Act, 1881.

11. After the 4th clause of the *explanation* to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely :—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

12. For the portion of section 76 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

14. For

Substitution of new section for section 90, Act V, 1881.

Power of executor or administrator to dispose of property.

14. For section 90 of the same Act the following shall be substituted, namely:—

“90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

“(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

“(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

“(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

“(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

“(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.”

Substitution of new section for section 98, Act V, 1881.

15. For section 98 of the same Act the following shall be substituted, namely:—

“98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

“(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

“(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

“(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.”

16. In

16. In section 99 of the same Act, for the words “it is sought to obtain a grant” the words “a grant has been made”, and for the words “the person applying for administration” the word “administrator”, shall be substituted.

Amendment of section 99, Act V, 1881.

Addition to Act V, 1881.

“157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

“(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both.”

Court-fees Act, 1870, and Indian Stamp Act, 1879.

Amendment of Act VII, 1870, and Act I, 1879.

18. (1) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words “Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority” the following words shall be substituted, namely:—

“Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure.”

(3) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words “Administration-bond” the following shall be added, namely:—

“including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889.”

(4) In article 13 of the first schedule to the Indian Stamp Act, 1879, after the words “not otherwise provided for by this Act” there shall be added the words “or by the Court-fees Act, 1870.”

Miscellaneous.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

Validation of acts under grants of administration already made.

20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector

in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty payable under section 19E of the said Act.

21. The

Repeal of part of section
7 (3), Bengal Act VII of
1880.

21. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands Recovery Act, 1880, namely:—

“ or in the following sections and portions of the following Act passed by the Governor-General in Council, that is to say, in Act VII of 1870, ‘ the Court-fees Act,’ sections 19G, 19H,”
is hereby repealed.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 8th March 1889, and is hereby promulgated for general information:—

ACT No. VII of 1889.

THE SUCCESSION CERTIFICATE ACT, 1889.

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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:—

- Title, commencement, extent and application.
1. (1) This Act may be called the Succession Certificate Act, 1889.
 - (2) It shall come into force on the first day of May 1889; and
 - (3) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);
 - (4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.

Repeal.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.
- (2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act.
- (3) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “District Court,” subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge: and

(2) “security” means—

- (a) any promissory note, debenture, stock or other security of the Government of India;
- (b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;
- (c) any stock or debenture of, or share in, a company or other incorporated institution;
- (d) any debenture or other security for money issued by, or on behalf of, a local authority;
- (e) any other security which the Governor-General in Council may, by notification in the *Gazette of India*, declare to be a security for the purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

- (a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or
- (b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the Administrator-General's Act, 1874, and having the debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code, No. VIII of 1827, and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word “debt” in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

Court having jurisdiction to grant certificate.

6. (1) Application

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely :—

- (a) the time of the death of the deceased ;
 - (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits ;
 - (c) the family or other near relatives of the deceased and their respective residences ;
 - (d) the right in which the petitioner claims ;
 - (e) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted ; and
 - (f) the debts and securities in respect of which the certificate is applied for.
- (2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

- (a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and
- (b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

- (a) to receive interest or dividends on, or
- (b) to negotiate or transfer, or

(c) both

(c) both to receive interest or dividends on, and to negotiate or transfer, the securities or any of them.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to enure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

10. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

13. (1) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely :—

Number.	—	Proper fee.
11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate	Two per centum on such amount or value : provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the

Number.	—	Proper fee.
	or letters is made exceeds one thousand rupees.	Bombay Code No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
" 12. Certificate under the Succession Certificate Act, 1889.	In any case	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
" 12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.		(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

(2) In the Court-fees Act, 1870, section 19, clause viii, for the words and figures "and certificate mentioned in the first schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827" shall be substituted.

14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

15. A certificate under this Act shall have effect throughout the whole of British India.

16. Subject

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

18. A certificate granted under this Act may be revoked for any of the following causes, namely :—

- that the proceedings to obtain the certificate were defective in substance ;
- that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case ;
- that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;
- that the certificate has become useless and inoperative through circumstances ;
- that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (1) A

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

23. (1) Where a certificate has been granted under this Act or Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator:

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865:

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt

or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court:

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor-General in Council.</i>		
XXVII of 1860 ..	Collection of debts on suc- cessions.	So much as has not been repealed.
XIV of 1869 ..	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons) and".
XV of 1874 ..	Laws Local Extent Act, 1874 ..	So much as relates to Act XXVII of 1860.
XIII of 1879 ..	Oudh Civil Courts Act, 1879 ..	Section 25, clause (3), relating to applications for certificates under Act XXVII of 1860.
V of 1881 ..	Probate and Administration Act, 1881.	Sections 151 and 153.
XVIII of 1884 ..	Punjab Courts Act, 1884 ..	Section 29, sub-section (1), clause (a).
XII of 1887 ..	Bengal, North-Western Pro- vinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
VII of 1880 ..	Public Demands' Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I".

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 11.)

In the Court of

To A. B.
Whereas you applied on the day of for a certificate under the
Succession Certificate Act, 1889, in respect of the following debts and securities, namely :—
Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of appli cation for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and]
[to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this day of

District Judge.

In the Court of

On the application of A. B. made to me on the day of , I hereby extend this
certificate to the following debts and securities, namely :—
Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers A. B. to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this day of

District Judge.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd March 1889, and is hereby promulgated for general information :—

ACT No. VIII of 1889.

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows :—

Sea Customs Act, 1878.

Amendment of section 37, Act VIII, 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely :—

“ Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption.”

Amendment of section 115, Act VIII, 1878.

2. In section 115 of the same Act, for the words and figures “ the second proviso to section 37 ” the words “ such alteration ” shall be substituted.

Indian Tariff Act, 1882.

Amendment of section 1, Act XI, 1882.

3. In section 1 of the Indian Tariff Act, 1882, the words “ and Perim ” shall be inserted after the word “ Aden ”.

Addition of new section to Act XI, 1882.

4. The following section shall be added to the same Act, namely :—

“ 10. In

“10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction.”

Amendment of the Second Schedule to Act XI, 1882.

5. In No. 1 of the Second Schedule to the same Act, for the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Gunpowder, common	lb.	RS. A. 0 5	} 10 per cent.
	Gunpowder, sporting	lb.	1 0	
	All other sorts	..	<i>Ad valorem.</i>	

there shall be substituted the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
	Gunpowder, common	lb.	RS. A. 0 5	} 10 per cent.
	Gunpowder, sporting	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores. ..	..	<i>Ad valorem.</i>	10 per cent.

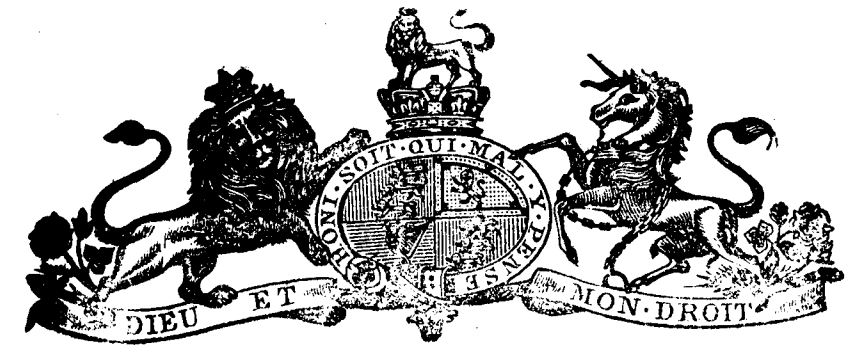
Explanation.—The expression “Arms, Ammunition and Military Stores,” as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

- (a) all articles which are either “arms” or “ammunition” within the meaning of the Indian Arms Act, 1878, and
- (b) any articles which the Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare to be “military stores” for the purposes of this Act.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 29th March 1889, and is hereby promulgated for general information :—

ACT No. X of 1889.

THE INDIAN PORTS ACT, 1889.

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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, commencement and extent.

and

1. (1) This Act may be called the Indian Ports Act, 1889;

(2) It shall come into force on the first day of April 1889.

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875;

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act:

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

Repeal.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(2) All

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(2) "Port Officer" is synonymous with Master Attendant:

(3) "vessel" includes anything made for the conveyance by water of human beings or of property:

(4) "master," when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a Pilot or Harbour Master) having for the time being the charge or control of the vessel:

(5) "Pilot" means a person for the time being authorized by the Local Government to pilot vessels:

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

(7) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

Power to extend or withdraw the Act or certain portions thereof.

4. (1) With the previous sanction of the Governor-General in Council, the Local Government may, by notification in the official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good

good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

5. (1) The Local Government may, with the previous sanction of the Governor-General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely :—

- (a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;
- (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;
- (c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking in davits, boats and other things projecting from such vessels;
- (d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;
- (e) for regulating vessels whilst taking in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;
- (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;
- (g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;
- (h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;
- (i) for regulating the use of the mooring buoys, chains and other moorings in any such port;
- (j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;
- (k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only occasionally, in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;
- (l) for regulating the use of fires and lights within any such port;
- (m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;

(n) for

(n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;

(o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port; and

(p) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port.

(2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication :

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

CHAPTER III.

PORT OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) The Local Government shall appoint some officer or body of persons to be Conservator of every port subject to this Act, and may suspend or remove such officer or body.

(2) Subject to any direction by the Local Government to the contrary,—

(a) in ports where there is a Port Officer, the Port Officer shall be the Conservator;

(b) in ports where there is no Port Officer, but where there is a Harbour Master, the Harbour Master shall be the Conservator.

(3) Where the Harbour Master is not Conservator, the Harbour Master and his assistants shall be subordinate to, and subject to the control of, the Conservator.

(4) The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

8. (1) The Conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the Conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the Conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

9. The Conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

10. (1) The

10. (1) The Conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The Conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the Conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction ;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same ;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs ;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the Conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator ;

and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel ;

and

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the Conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a Conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the Conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the Conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the Conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto :

Provided that the person makes his claim within three years from the date of the sale.

15. (1) The Conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the Conservator or Port Officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the Conservator or Port Officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

17. (1) The

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the Health Officer, and may suspend or remove from office any officer so appointed.

(2) A Health Officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely,—

- (a) with respect to any vessel, the powers conferred on a Shipping Master by Act I of 1859, section 71;
- (b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel;
- (c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;
- (d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;
- (e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. The Government shall not be responsible for any act or default of any Conservator, Port Officer or Harbour Master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any Pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

21. (1) No

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punished with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the Conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the Conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the Conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the Conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

27. If

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the Conservator or the Port Officer, or any person acting under the authority of the Conservator or Port Officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. (1) No person, without the permission of the Conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

30. (1) No person without the permission of the Conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the Conservator, and with the aid or under the inspection of such person, if any, as the Conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a Pilot, Harbour Master or assistant of the Port Officer or Harbour Master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a Pilot, Harbour Master or assistant of the Port Officer or Harbour Master on board, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a Pilot, Harbour Master or assistant of the Port Officer or Harbour Master to go on board the vessel.

(3) Nothing

(3) Nothing in sub-sections (1) and (2) shall apply to native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the Conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (1) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor-General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

- (a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,
- (b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and
- (c) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

34. The Local Government may exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them: Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct:

Provided

Provided that, in the case of fees for pilotage, the previous sanction of the Governor-General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

36. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

Receipt, expenditure and account of port-charges.

(2) Such officer or body shall keep for the port a distinct account, to be called the Port Fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor-General in Council may determine, shall be charged in the Port Fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

- (a) fines,
- (b) proceeds of waifs, and
- (c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the Port Fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

- (a) the pay and allowances of all persons upon the establishment of the port,
- (b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,
- (c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,
- (d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and
- (e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the Port Fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a Port Fund account, any such balance may be temporarily invested in such manner as the Local Government may direct.

37. (1) The

37. (1) The Local Government may direct that for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the Port Fund account under sub-section (4) of that section shall form a common Port Fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the Port Fund account of each of those ports shall be kept separate from the Port Fund account of any other port.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely,—

- (a) the Local Government, in the exercise of its control over expenditure debitable to the common Port Fund account of the group, may, with the previous sanction of the Governor-General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor-General in Council may deem it necessary to issue with respect to such expenditure; and
- (b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the Conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam-boats plying to and from the port of Chittagong.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the Conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

Conservator may in certain cases ascertain draught and charge expense to master.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed:—

Ascertainment of tonnage of vessel liable to port-dues.

- (1) (a) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the Conservator

Conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

- (b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.
- (2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the Conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the Conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.
- (3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the Conservator on such an estimate as may seem to him to be just.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid ;

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

No port-clearance to be granted until port-charges are paid.

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—
- (a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act ;
- (b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. (1) If

44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. (1) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable :

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

Port-dues not chargeable on pleasure-yachts or on vessels re-entering from stress of weather.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

49. (1) The

49. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

CHAPTER VI.

HOISTING SIGNALS.

51. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the Pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

52. (1) Every

Pilot to require master to hoist number.

52. (1) Every Pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the Pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the Pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any Pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this chapter, shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a Pilot withdrawn.

Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

Penalty for disobedience to rules and orders of the Local Government.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel, or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Offences how triable, and penalties how recovered.

56. (1) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

Costs of conviction.

(2) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

Ascertainment and recovery of expenses and damages payable under this Act.

57. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

Costs of distress.

59. If

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

61. (1) No conviction, order or judgment of any Magistrate under this Act 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.

(2) 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 the depositions.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colors, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The Conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colors so unlawfully hoisted, carried or worn on board the same.

63. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has been applied, or by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint

complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

66. Any money contributed before the passing of this Act from any Port Fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

67. Any local authority in which any immovable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any Conservator may, subject to his control, be done or given by any Harbour Master or any deputy or assistant of such Conservator or Harbour Master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

PART I.—BENGAL—continued.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Balasore Ports,—namely, Balasore, Churaman, Laichunpur, Chanua, Subarnarekha, Dhamra (Chandbally) and Sartha.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail steamers and coasting vessels, which shall not be chargeable more than once in sixty days.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the Conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of <i>dhonis</i> and country vessels employed in the coasting trade the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong	Sea-going vessels of ten tons and upwards, not being ballam boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Do.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam boats ..	Not exceeding one anna per ton.	Whenever the vessel enters the port.
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail steamers and coasting vessels, which shall not be chargeable more than once in sixty days.

PART II.—MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Madras	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i> (a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon, calling at Madras, not exceeding four annas a ton. (b) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton. <i>Coasting Vessels.</i> (c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton. (d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again. The due is payable on each entry into the port. The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again. The due is payable once in thirty days.

PART II.—MADRAS PRESIDENCY—continued.

PART II.—MADRAS PRESIDENCY—continued.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Eastern Group.</i>				
District.	Port.	Sea-going vessels of fifteen tons and upwards.		
Ganjam.	1. Gopalpur.		<i>Foreign Vessels.</i>	
	2. Sonnapuram.			
	3. Baruva.			
	4. Pundi.			
Vizagapatam.	5. Calingapatam.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	6. Konada.			
	7. Bimlipatam.			
	8. Vizagapatam.			
Godavari.	9. Pudimadaka.		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	10. Pentakota.			
	11. Uppada.			
	12. Cocanada.			
Kistna.	13. Coringa.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	14. Bendamurlanka.			
	15. Narsapur.			
	16. Perupalem.			
	17. Masulipatam.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	18. Penumudi.			
	19. Morutota.			
	20. Nagayalanka.			
	21. Kottapalem.		<i>Coasting Vessels.</i>	
	22. Gangadipalem.			
	23. Nizampatnam.			
	24. Ipurupalem.			
	25. Bedduvanipalem.		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	26. Motupalle.			
	27. Kanuparti.			
	28. Kottapatnam.			
	29. Itamukkala.		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	30. Pakala.			
	31. Karedu.			
	32. Ramayapatnam.			
Nellore.	33. Chennayyapalem.			
	34. Tummala-penta.			
	35. Juvaladinno.			
	36. Iskapalle.			
	37. Ponnepudi.			
	38. Maipadu.			
	39. Kistnapatam.			
	40. Pamanji.			
	41. Tupili.			
	42. Dugarazpatnam.			
	43. Pudi.			
	44. Pulicat.			
Chingleput.	45. Ennore.			
	46. Covelong.			

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Eastern Group—cont.</i>				
District.	Port.	Sea-going vessels of fifteen tons and upwards.		
South Arcot.	47. Marakanam.		<i>Foreign Vessels.</i>	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	48. Ouddalore.			
	49. Porto Novo.			
	50. Tirumalavasal.			
	51. Kodiyampalaiyam.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	52. Tranquebar.			
	53. Nagore.			
	54. Negapatam.			
Tanjore.	55. Velankani.		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	56. Toppaturai.			
	57. Point Calimere.			
	58. Mutupet.			
	59. Adirampatnam.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	60. Gopalapatnam.			
	61. Kattumavadi.			
	62. Krishnajipatnam.			
	63. Ammapatnam.		<i>Coasting Vessels.</i>	
	64. Kottaiapatnam.			
	65. Sundarapandiyapatnam.			
	66. Pasipatnam.			
	67. Damodara-patnam.		(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	68. Tondi.			
	69. Nambitalai.			
	70. Pudupatnam.			
Madura.	71. Karangadu.		(f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	72. Tiruppallankudi.			
	73. Devipatnam.			
	74. Mudiyanpatnam.			
	75. Attankarai.			
	76. Emanangundu.			
	77. Pillaimadam.			
	78. Pamban.			
	79. Ramesvaram.			
	80. Mandapam.			
	81. Vedalai.			
	82. Marakkayapatnam.			
	83. Muttupettai.			
	84. Kilakarai.			
	85. Ervadi.			
	86. Valinokkam.			
Tinnevely.	87. Vaippar.			
	88. Tuticorin.			
	89. Kayalpatnam.			
	90. Kulasekharapatnam.			

PART II.—MADRAS PRESIDENCY—continued.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Western Group.</i>				
District.	Port.		<i>Foreign Vessels.</i>	
Malabar.	91. Cochin.	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	92. Arrupuram.		(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	93. Kukkuyi.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	94. Madayi.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	95. Attakuri.			
	96. Chavakad.			
	97. Veliyangod.			
	98. Ponani.			
	99. Kuttayi.			
	100. Parapanna.			
	101. Tanur.			
	102. Parpanangadi.			
	103. Kadalvandi.			
	104. Beypore.			
	105. Molakkadava.			
	106. Calicut.			
	107. Pudiyanagadi.			
	108. Elatturu.			
	109. Kappatta.			
	110. Quilandi.			
	111. Kollam.			
	112. Kadalura.			
	113. Trikodi.			
	114. Kottakkal.			
	115. Badagara.			
	116. Muttankal.			
	117. Chompayi.			
	118. Kallayi.			
	119. Talayi.			
	120. Tellicherry.			
	121. Dharmapatnam.			
	122. Ezhara.			
	123. Cannanore.			
	124. Pudiyanagadi.			
	125. Palapatnam (Baliapatnam).			
	126. Ettikulam.			
	127. Kavvayi.			
	128. Hosdrug.			
	129. Baikal.			
South Canara	130. Kasaragod.			
	131. Kumbale.			
	132. Manjesvara.			
	133. Mangalore.			
			<i>Coasting Vessels.</i>	
			(a) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.

PART II.—MADRAS PRESIDENCY—continued.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
<i>Western Group—cont.</i>				
District.	Port.		<i>Foreign Vessels.</i>	
South Canara—cont.	134. Mulki.	Sea-going vessels of fifteen tons and upwards.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	135. Padubidri.		(b) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	136. Ermala.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	137. Uchhila.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	138. Kaph.			
	139. Udiyavara.			
	140. Malpe.			
	141. Barkur or Hangarakatta.			
	142. Coondapoor.			
	143. Nyakinakatte (Nayakkankottai).			
	144. Baindur.			
	145. Siruru.			
			<i>Coasting Vessels.</i>	
			(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(f) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.

Explanation to Part II of the First Schedule.

Explanation 1.—In this part of the schedule—

- (a) "ship" means a sailing vessel, and "steamer" a steam vessel;
 (b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam vessel having a general pass under section 164 of the Sea Customs Act, 1878;
 (c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay	Sea-going vessels of ten tons and upwards (except fishing-boats). Tug-steamers, ferry-steamers and river-steamers.	Not exceeding four annas per ton. Do. ..	Once in the same month. Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
Northern Group of Ports.			
1. Gogha	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
2. Dholera			
3. Tankari			
4. Dehegam			
5. Dehej			
6. Broach			
7. Bhagwa			
8. Surat			
9. Matwad			
10. Balsar			
11. Umarsadi			
12. Kolak			
13. Kalai			
14. Maroli			
15. Umbargam			
16. Gholwad			
17. Dahanu Creek			
18. Tarapur			
19. Olivara Navapur			
20. Satpati Creek			
21. Mahim (Kelva)			
22. Kelva			
23. Dantiora			
24. Arnala			
Southern Group of Ports.			
1. Bandra	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesava			
3. Manori			
4. Utan			
5. Bassein			
6. Bhiwandi			
7. Kalyan			
8. Thana			
9. Trombay			
10. Panwel			
11. Karanja			
12. Rewas			
13. Nagothna			
14. Thal			
15. Alibag			
16. Revdanda			
17. Mandad			

PART III.—BOMBAY PRESIDENCY—continued.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports—cont.</i>			
18. Bankot	Sea-going vessels of ten tons and upwards (except fishing-boats). Tug-steamers and river-steamers.	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
19. Kelshi			
20. Harnai			
21. Anjanwel			
22. Borya			
23. Jaygad			
24. Varavda			
25. Ratnagiri			
26. Purangad			
27. Jaytapur			
28. Vijaydurg			
29. Devgad			
30. Achra			
31. Malwan			
32. Nivti			
33. Vengurla			
34. Redi			
35. Terekhol			
36. Karwar, including Baitkhol.			
37. Chendiya			
38. Ankola			
39. Gangavali			
40. Tadri			
41. Kumpta			
42. Honawar			
43. Murdeshwar			
44. Shirali			
45. Bhatkal			
Karachi'	Sea-going vessels of ten tons and upwards (except fishing boats). Tug-steamers and river-steamers.	Not exceeding four annas per ton. Do. ..	Once in three months. Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon	Sea-going vessels of ten tons and upwards. Tug-steamers and river-steamers.	Not exceeding six annas per ton. Not exceeding four annas per ton.	Once in sixty days. Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain	Sea-going vessels of ten tons and upwards, but less than twenty-five tons. Sea-going vessels of twenty-five tons and upwards.	Not exceeding four annas per ton. Not exceeding five annas six pies per ton.	Once in sixty days. Do.
Kyauk-Phyu ..	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Do.
Akyab	Do. ..	Do. ..	Do.
Bassein	Sea-going vessels of ten tons and upwards, but less than twenty-five tons. Sea-going vessels of twenty-five tons and upwards.	Do. .. Not exceeding five annas six pies per ton.	Do. Do.
Tavoy	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Do.
Mergui	Do. ..	Do. ..	Do.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.
(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor-General in Council.</i>		
XII of 1875 ..	Indian Ports Act, 1875 ..	So much as has not been repealed.
IX of 1879 ..	Burma Coast-lights Act, 1879 ..	Section 17 and the preamble to that section.
VII of 1880 ..	Indian Merchant Shipping Act, 1880 ..	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed."
IV of 1881 ..	Madras Port-dues Act, 1881 ..	The whole.
XVII of 1882 ..	Indian Ports Act, 1882 ..	The whole.
V of 1883 ..	Indian Merchant Shipping Act, 1883 ..	Section 31.
XI of 1883 ..	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884 ..	Indian Explosives Act, 1884 ..	Section 3.
V of 1885 ..	Amendment of the Indian Ports Act, 1875.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
II of 1872 ..	Madras Port Rules ..	The whole.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
III of 1872 ..	Calcutta Port Commissioners ..	The whole.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 4th September 1889, and is hereby promulgated for general information:—

ACT No. XII. OF 1889.

An Act to amend the Indian Merchandise Marks Act, 1889.

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November 1889 without having their length stamped thereon in standard yards, or in standard yards and a fraction of such a yard; It is hereby enacted as follows:—

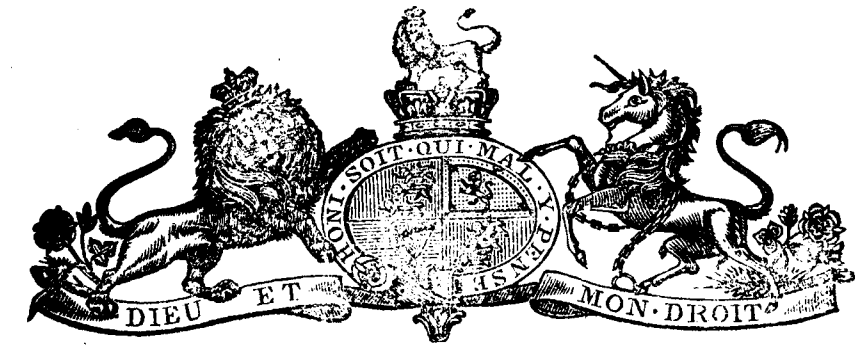
1. (1) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, 1873, as amended by section 10, sub-section (2), of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October 1889.

(2) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (1).

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th October 1889, and is hereby promulgated for general information :—

ACT No. XIII of 1889.

THE CANTONMENTS ACT, 1889.

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THE SCHEDULE.—ENACTMENTS REPEALED.

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India, inclusive of Upper Burma; and

(3) It shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints in this behalf.

Repeal.

2. (1) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof:

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor-General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bazaars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Interpretation.

3. (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(a) "officer" means—

- (i) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her

Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881 :

(b) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act :

(c) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act :

(d) "intoxicating drug" means opium, ganja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act : and

(e) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(2) The provisions of the General Clauses Acts, 1868 and 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor-General in Council.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

4. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.

Cantonment Authorities and Magistrates.

5. For every cantonment beyond the limits of a presidency town there shall be a cantonment authority and a Cantonment Magistrate.

6. (1) The

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), the Indian Telegraph Act, 1885, and the General Clauses Act, 1887.

7. The Cantonment Magistrate shall be a Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1882, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Cause Courts Act, 1887, it shall, in its order appointing him to be such Judge, declare, and may by notification in the official Gazette vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

11. A Cantonment

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Cantonment Police.

12. (1) The police-force employed in a cantonment beyond the limits of a presidency town shall, for the purposes of Act XXIV of 1859 (for the better regulation of the Police within the territories subject to the Presidency of Fort St. George) or Act V of 1861 (for the regulation of Police) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor 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 follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorized by the commanding officer to grant such permission, he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

(a) any person subject to military law otherwise than as an officer or soldier,

(b) the wife or servant of any such person or of a soldier, has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorized by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

15. (1) Any

15. (1) Any police officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

Saving of article sold or supplied for medicinal purposes.

16. The foregoing provisions of this chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

17. (1) With the previous sanction of the Governor-General in Council, the Local Government may, by notification in the official Gazette,—

(a) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

(b) abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

18. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 (to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the

Extension of Act XX of 1856 to certain cantonments.

the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act in the cantonment.

20. (1) Notwithstanding anything in any enactment for the time being in force, the Governor-General in Council may, by notification in the *Gazette of India*, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund.

21. (1) There shall be formed for every cantonment which is not included in a municipality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

- (a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881;
- (b) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 in the cantonment; and
- (c) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject

subject to the rules under this Act, to the maintenance of the police force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

22. (1) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

23. The cantonment fund shall be vested in Her Majesty, and, subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land-acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

25. The Governor-General in Council may, by notification in the *Gazette of India*, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

26. The Governor-General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;
- (2) the conditions to be annexed to every such permission given in pursuance of such an application;
- (3) the preparation and maintenance of registers of immoveable property in cantonments;
- (4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees;

(5) the

- (5) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened;
- (6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment;
- (7) the purposes to which the cantonment fund may be applied;
- (8) the authority on which money may be paid from the cantonment fund;
- (9) the investment of any balance of that fund;
- (10) the execution of contracts by, or on behalf of, the cantonment authority;
- (11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;
- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor-General in Council, been made under section 25;
- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (14) the prevention of the overcrowding of buildings and places in a cantonment;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands;
- (17) the regulation of encamping-grounds, saráis, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies;
- (18) the use and management of burial and burning grounds;
- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;
- (21) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease;
- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or supposed to be suffering from any infectious or contagious disease;
- (23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and

- and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom;
- (24) the prevention of cruelty to animals and the care of animals while grazing;
 - (25) the prevention and extinction of fires;
 - (26) the registration of births and deaths;
 - (27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;
 - (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences;
 - (29) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;
 - (30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,
 - (31) generally, the carrying out of the purposes of this Act.

27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the *Gazette of India* and in such other manner as the Governor-General in Council prescribes.

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor-General in Council directs.

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(4) In making any rule under clause (12) or any of the following clauses of the last foregoing section, the Governor-General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

28. The Local Government may, by notification in the official Gazette and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

- (a) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25, or
- (b) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub-section (4) of section 27;

and

and the enactment, rule or direction specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

30. Where a cantonment is situated within the limits of a presidency town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs 2 and 3, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor-General in Council may, by notification in the *Gazette of India*, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor-General in Council.		
Act XVIII of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854 ..	Sentences of superintendents of bazaars.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code ..	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section 193.
Act V of 1869 ..	Indian Articles of War ..	Part III, clause (c): and for the last twenty-seven words of Part I, clause (f), the following shall be substituted, namely:— "and officers in charge of the police in cantonments are defined and controlled."
Act VII of 1870.	Court-fees Act, 1870 ..	Section 19, clause iv, and in Schedule II, article 1, clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859."
Act XV of 1874.	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832: so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827: and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVIII of 1876.	Oudh Laws Act, 1876 ..	So much as relates to Bengal Regulation XX of 1810.
Act III of 1877 ..	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof."
Act XIV of 1879.	Hackney Carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor-General in Council may" down to and inclusive of the words "in which British troops are cantoned."
Act III of 1880 ..	Cantonments Act, 1880 ..	So much as has not been repealed.
Act XXII of 1881.	Excise Act, 1881 ..	The proviso to section 53.
Act X of 1882 ..	Code of Criminal Procedure, 1882.	Clause (b) of section 1.
Act XIV of 1882.	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.
Act XX of 1886.	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments."
Regulation of the Bengal Code.		
Regulation XX of 1810.	Military bazaars ..	So much as has not been repealed.
Regulation of the Bombay Code.		
Regulation XXII of 1827.	Military authority ..	So much as has not been repealed, except sections 40, 41, 42 and 43.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor of Fort St. George in Council.</i>		
Act IV of 1865 ..	Madras Cantonments ..	The whole, so far as it has not been repealed.
Act I of 1866 ..	Madras Cantonments ..	So much as has not been repealed.
<i>Act of the Governor of Bombay in Council.</i>		
Act III of 1867 ..	Bombay Cantonment Act of 1867.	So much as has not been repealed.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>		
III of 1877 ..	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th October 1889, and is hereby promulgated for general information:—

ACT No. XV of 1889.

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1889; and
(2) It extends to the whole of British India, and applies—
(a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and
(b) to all Native Indian subjects of Her Majesty without and beyond British India.

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

- Definitions.
- (1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty;
 - (2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated;
 - (3) "document" includes part of a document;
 - (4) "model" includes design, pattern and specimen;
 - (5) "sketch" includes any photograph or other mode of representation of any place or thing: and
 - (6) "office"

(6) "office"

- (6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

Disclosure of information. 3. (1) (a) Where a person for the purpose of wrongfully obtaining information—

- (i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or,
- (ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,
- (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

- (b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or
- (c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information

information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor-General in Council.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th February 1890, and is hereby promulgated for general information:—

ACT No. I OF 1890.

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Revenue Recovery Act, 1890.

(2) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

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

(1) “district” includes a presidency-town: .

(2) “Collector” means the chief officer in charge of the land-revenue administration of a district: and

(3) “defaulter” means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

Recovery of public demands by enforcement of process in other districts than those in which they become payable. 3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the re-payment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void as against the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

Saving of local laws relating to revenue.

7. Nothing in the foregoing sections shall be construed—

- (a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or
- (b) to authorize the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

8. When this Act has been applied to any local area which is under the administration of the Governor-General in Council, but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

(See section 3, sub-section (1).)

From
To
The Collector of
The Collector of
Dated the _____ of _____ 18
The sum of Rs. _____ is payable on account of _____ by _____, son of _____, resident of _____, who is believed (to be) _____ at _____ (to have property consisting of _____ at _____ in your district.)
Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at _____

A. B.,
Collector of _____

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th February 1890, and is hereby promulgated for general information :—

ACT No. II OF 1890.

An Act to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864 (*An Act to constitute an Office of Official Trustee*), the Indian Succession Act, 1865, the Administrator-General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows :—

Act XVII of 1864.

1. In section 1 of Act XVII of 1864, before the definition of the expression "High Court," the following shall be inserted, namely :—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor-General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council."

2. After section 1 of the said Act the following shall be inserted, namely :—

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor-General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras

Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator-General."

Substitution of new section for section 5.

3. For section 5 of the said Act the following shall be substituted, namely:—

Appointment, suspension and removal of Official Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment of section 6, Act XVII, 1864.

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

Amendment of section 7, Act XVII, 1864.

5. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee."

Addition to section 11, Act XVII, 1864.

6. To section 11 of the said Act the following shall be added, namely:—

"Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration, in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

Addition of sections to Act XVII, 1864.

7. To the said Act, after section 32, the following shall be added, namely:—

Compliance with requisitions for returns.

"33. The Official Trustee shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

Division of the Presidency of Fort William in Bengal into Provinces.

"34. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India,—

(a) divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,

(b) define the limits of each of those Provinces, and

(c) appoint an Official Trustee for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

(i) the office of Official Trustee of Bengal shall cease to exist:

(ii) the Official Trustee of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included

included in the Province as the Official Trustee of Bengal had and performed as Official Trustee therein:

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in the Province, be discharged by the Governor-General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court of Judicature at Fort William in Bengal in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf:

(v) in the foregoing provisions of this Act, the word 'Presidency' shall be deemed to include a Province, the expression 'Chief Justice' the Chief Justice, senior Judge or sole Judge, as the case may be, of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression 'Advocate-General' a Government Advocate or other officer appointed by the Governor-General in Council to discharge for a Province the functions under this Act of an Advocate-General for a Presidency: and,

(vi) generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into Provinces, and to or in which the Official Trustee of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Official Trustee of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Official Trustee of Bengal, and shall hold and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1)."

Official Trustees holding office at commencement of this Act.

8. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

The Indian Succession Act, 1865.

Addition of new section after section 326, Act X, 1865.

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely:—

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration

administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

The Administrator-General's Act, 1874.

10. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator-General's Act, 1874, the word "Burma" shall be substituted for the words "British Burma," and to clause (a) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words "and under the administration of the Chief Commissioner of British Baluchistan" shall be added.

11. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator-General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him," the following shall be substituted, namely:—

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator-General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator-General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ;"

(2) The portion of section 5 of the Administrator-General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed.

12. After section 41 of the said Act the following shall be inserted, namely:—

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator-General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto,

thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

13. To section 64 of the said Act the following shall be added, namely:—

"The District Judge may cause to be paid out of any property of which he or such officer has charge or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely:—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant, and
- (c) the relief of the immediate necessities of the family of the deceased, and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

14. To Part VI, and after section 66, of the said Act the following shall be added, namely:—

"67. The Administrator-General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

15. To the said Act, after Part VI and section 67 thereof, the following shall be added, namely:—

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

68. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Administrator-General of Bengal, may, by notification in the Gazette of India,—

- (a) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,
 - (b) define the limits of each of those Provinces, and
 - (c) appoint an Administrator-General for each Province,
- and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

- (i) the office of Administrator-General of Bengal shall cease to exist:
- (ii) the Administrator-General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Administrator-General of Bengal had and performed as Administrator-General therein:
- (iii) the

- (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor-General in Council :
- (iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator-General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator-General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had :
- (v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression 'Advocate-General' a Government Advocate or other officer appointed by the Governor-General in Council to discharge for a Province the functions under this Act of an Advocate-General for a Presidency :
- (vi) the provisions of this Act with respect to the commission of the Administrator-General of Bengal shall regulate the commission payable to the Administrator-General of a Province : and,
- (vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator-General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator-General, respectively, appointed for the Province under this section.
- (2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator-General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator-General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator-General of Bengal.
- (3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).
- (4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator-General of the Province in which the town of Calcutta is comprised shall be deemed to be the Administrator-General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863."

The Probate and Administration Act, 1881.

Addition of new section after section 145, Act V, 1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely :—

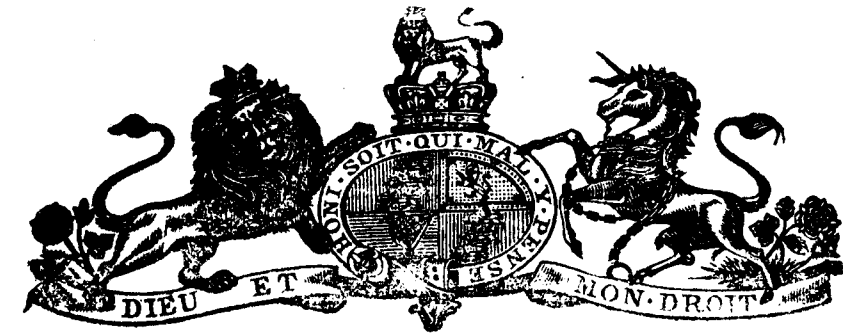
" 145A. Where

" 145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 21st February 1890, and is hereby promulgated for general information :—

ACT No. III OF 1890.

An Act to amend Acts VI and VII of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884, in manner hereinafter appearing; It is hereby enacted as follows :—

Inland Steam-vessels Act, 1884.

1. For the definition of “inland water” in section 5, clause (3), of the Inland Steam-vessels Act, 1884, the following shall be substituted, namely :—

“(3) ‘inland water’ means any canal, river, lake or navigable water in British India :”

2. After section 8 of the said Act the following shall be inserted, namely :—

“8A. Before a survey under this Act is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

- (a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and,
- (b) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local

Local Government, from time to time, by notification in the official Gazette, directs."

Repeal of part of section 10 (3), Act VI, 1884. 3. In section 10, sub-section (3), of the said Act the words "in addition to the fee payable for the certificate" are hereby repealed.

Amendment of, and addition to, section II, Act VI, 1884. 4. (1) In section 11, sub-section (1), of the said Act the words "fees and other" are hereby repealed.

(2) To the same section the following sub-section shall be added, namely:—

"(4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor-General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9."

Repeal of section 12, Act VI, 1884.

5. Section 12 of the said Act is hereby repealed.

Amendment of section 17, Act VI, 1884. 6. In section 17 of the said Act, between the word "which" and the word "granted," in both places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section 19, Act VI, 1884. 7. In section 19, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

Amendment of section 21, Act VI, 1884.

8. In section 21, sub-section (2), clause (d), of the said Act, for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Insertion of new section after section 25, Act VI, 1884.

9. After section 25 of the said Act the following shall be inserted, namely:—

"25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, or as an engine-driver, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class or second-class master, or as an engineer, or as an engine-driver, as the case may be, of an inland steam-vessel.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination."

Amendment of section 26, Act VI, 1884.

10. In section 26 of the said Act the words "or service" shall be inserted after the word "competency."

11. To

Addition to section 29, Act VI, 1884.

11. To section 29 of the said Act the following shall be added, namely:—

"The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(a) fix the fees to be paid for such certificates, and
(b) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

Addition to Chapter VII, Act VI, 1884.

12. To Chapter VII of the said Act the following shall be added, namely:—

"51A. (1) The Local Government may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.

(2) Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees."

Insertion of new section after section 54, Act VI, 1884.

13. After section 54 of the said Act the following shall be inserted, namely:—

"54A. If an inland steam-vessel has on board thereof or on or in any part thereof a number of passengers which is greater than the number of passengers set forth in the certificate of survey as the number which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and master shall, for every passenger over and above that number, be each liable to a fine which may extend to ten rupees."

Amendment of heading to second schedule, Act VI, 1884.

14. In the second schedule to the said Act, for the words and figures "See section 12" the words, figure and letter "See section 8A" shall be substituted.

Indian Steamships Act, 1884.

Insertion of new section after section 10, Act VII, 1884.

15. After section 10 of the said Act the following shall be inserted, namely:—

"10A. Before a survey under this Act is commenced, the owner or master of the steamship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

(a) a fee calculated on the tonnage of the steamship according to the rates in the schedule hereto annexed or according to any other prescribed rates and

(b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs."

16. In

Repeal of part of section 12 (3), Act VII, 1884.

16. In section 12, sub-section (3) of the said Act, the words "in addition to the fee payable for the certificate" are hereby repealed.

Amendment of, and addition to, section 13, Act VII, 1884.

17. (1) In section 13, sub-section (1) of the said Act the words "fees and other" are hereby repealed.

(2) To the same section the following sub-section shall be added, namely:—

"(4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor-General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorize the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11."

Repeal of section 14, Act VII, 1884.

18. Section 14 of the said Act is hereby repealed.

19. In section 19 of the said Act, between the word "which" and the word "granted," in both the places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section 19, Act VII, 1884.

20. In section 21, sub-section (1), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

Amendment of section 21, Act VII, 1884.

Amendment of section 24, Act VII, 1884.

21. In section 24, sub-section (2), clause (d), for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Amendment of heading to second schedule, Act VII, 1884.

22. In the schedule to the said Act, for the words and figures "See section 14" the words, figures and letter "See section 10A" shall be substituted.

S. HARVEY JAMES,

Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,

Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 28th February, 1890, and is hereby promulgated for general information:—

ACT No. V of 1890.

An Act to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881.

WHEREAS it is expedient to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Act may be called the Forest Act, 1890: and

(2) It shall come into force at once.

Indian Forest Act, 1878.

Amendment of section 2, Act VII, 1878.

2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely:—

"'Tree' includes palms, bamboos, stumps, brushwood and canes:"

(2) For the definition of "Timber" in the same section the following shall be substituted, namely:—

"'Timber' includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:"

(3) For the definition of "Forest produce" in the same section the following shall be substituted, namely:—

"'Forest-produce' includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams and

(b) the

(b) the following when found in, or brought from, a forest, that is to say :—

- (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,
- (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,
- (iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
- (iv) peat, surface-soil, rock, and minerals (including limestone, laterite, mineral oils and all products of mines or quarries):”.

Amendment of section 4,
Act VII, 1878.

3. For clause (b) of section 4 of the said Act the following shall be substituted, namely :—

“(b) specifying as nearly as possible the situation and limits of such land; and”.

Addition to section 5,
Act VII, 1878.

4. To section 5 of the said Act the words “except in accordance with rules prescribed by the Local Government” shall be added.

Amendment of section 6,
Act VII, 1878.

5. For clause (a) of section 6 of the said Act the following shall be substituted, namely :—

“(a) specifying as nearly as possible the situation and limits of the proposed forest;”.

Addition of new section
after section 9, Act VII,
1878.

6. After section 9 of the said Act the following shall be inserted, namely :—

“9A. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest-Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest-Settlement-officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(4) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.”

Amendment of section
25, Act VII, 1878.

7. For clause (b) of section 25 of the said Act the following shall be substituted, namely :—

“(b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;”.

8. (1) In

Amendment of Chapters
VII and VIII, Act VII,
1878.

8. (1) In the heading of Chapter VII of the said Act, for the words “OF THE DUTY ON TIMBER” the words “OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE” shall be substituted.

(2) In section 39 of the said Act, after the word “timber”, in both places where the word occurs, the words “or other forest-produce” shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words “and other” the words “or other” shall be substituted.

Addition to section 41,
Act VII, 1878.

(4) To section 41 of the said Act the following shall be added, namely :—

“The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.”

Amendment of section
47, Act VII, 1878.

9. In section 47 of the said Act the words “within three months” shall be substituted for the words “within two months”.

Addition to section 48,
Act VII, 1878.

10. To section 48 of the said Act, after the word “encumbrances” the words “not created by him” shall be added.

Amendment of section
56, Act VII, 1878.

11. In section 56 of the said Act, for the words “whom he deems to be entitled to the same” the words “whom the Magistrate deems to be entitled to the same” shall be substituted.

Amendment of section
63, Act VII, 1878.

12. In section 63 of the said Act, after the words “before the Magistrate having jurisdiction in the case”, the words “or to the officer in charge of the nearest police-station” shall be added.

Amendment of section
67, Act VII, 1878.

13. (1) For section 67 of the said Act the following shall be substituted, namely :—

Power to compound
offences.

“67. (1) The Local Government may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1), clause (a), shall in no case exceed the sum of fifty rupees.”

Addition of new section
after section 83, Act VII,
1878.

14. After section 83 of the said Act the following shall be added, namely :—

“84. When

“84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.”

Burma Forest Act, 1881.

Amendment of section 2 Act XIX, 1881. 15. (1) For the definition of “tree” in section 3 of the Burma Forest Act, 1881, the following shall be substituted, namely :—

“‘tree’ includes palms, bamboos, stumps, brushwood and canes :”.

(2) For the definition of “forest-produce” in the same section the following shall be substituted, namely :—

“‘forest-produce’ includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say :—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries):”.

Amendment of section 26, Act XIX, 1881. 16. For clause (b) of section 26 of the said Act the following shall be substituted, namely :—

“(b) sets fire to a reserved forest, or, in contravention of any rules made by the Chief Commissioner, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,”.

Amendment of Chapters V and VI, Act XIX, 1881. 17. (1) In the heading of Chapter V of the said Act, for the words “OF THE DUTY ON TIMBER” the words “OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE,” and in the heading of Chapter VI of the said Act, for the words “OF THE CONTROL OF TIMBER IN TRANSIT” the words “OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT” shall be substituted.

(2) In sections 39, 41 and 42, after the word “timber,” wherever it occurs, the words “or other forest-produce” shall be inserted.

(3) Throughout section 43, after the word “timber,” except in the first paragraph, where the word first occurs, and in clauses (e), (i), (l) and (m), the words “or other forest-produce” shall be inserted.

(4) To section 43 of the said Act the following shall be added, namely :—

“The Chief Commissioner may direct that any rule made under this section shall



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th March 1890, and is hereby promulgated for general information :—

ACT No. VI OF 1890.

An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes ; It is hereby enacted as follows :—

1. (1) This Act may be called the Charitable Endowments Act, 1890.

(2) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan ; and

(3) It shall come into force on the first day of October 1890.

2. In this Act “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which

relates exclusively to religious teaching or worship.

3. (1) The Governor-General in Council may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to any Local Government.

(2) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

4. (1) Where

4. (1) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) A Local Government shall not make an order under sub-section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely:—

(a) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(b) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(c) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

(d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India;

(e) a security expressly authorized by any order which the Governor-General in Council may make in this behalf.

(4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

5. (1) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government, if it thinks fit, may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.

(2) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(3) A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof in so far as such decree or direction

direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained and, in the opinion of the Local Government, effect can reasonably be given to them.

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

6. (1) The application referred to in the two last foregoing sections must be made,—

(a) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust or, where there are more persons than one so acting, then by those persons or a majority of them, and

(b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

7. (1) The Governor-General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(2) When the Governor-General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

10. (1) A

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (3), clause (a), (b), (c), (d) or (e), or in the purchase of immoveable property.

(3) When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor-General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor-General in Council may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor-General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

13. The Governor-General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and may make such rules consistent with this Act as he may deem expedient for—

- (a) prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments,
 - (b) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments,
 - (c) regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under section 5,
- prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited, and, finally, carrying into effect the purposes of this Act.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate-General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*An Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

16. A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the Governor-General in Council.

S. HARVEY JAMES,
Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Acting Chief Secretary.



ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October 1890, and is hereby promulgated for general information:—

ACT No. XVII OF 1890.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1891, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

Titlo, extent and commencement. 1. (1) This Act may be called the Indian Census Act, 1890.

(2) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

Appointment of census-officers. 2. (1) The Local Government may appoint any person, by name or by office, to take, or aid in or supervise the taking of, the census within any specified local area.

(2) Persons so appointed shall be called census-officers.

(3) The Local Government may delegate to such authority as it thinks fit the power of appointing census-officers which is conferred by this section.

Proof of appointment of census-officers, and their status as public servants. 3. (1) A declaration in writing, signed by any officer authorised by the Local Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(2) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

4. (1) (a) Every

Discharge of duties of census-officers in certain cases.

4. (1) (a) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(e) every occupant of immoveable property having at the time of the taking of the census not less than fifty persons employed under him, or living, on or in such property,

shall, if so required by the District Magistrate, or by such officer as the Local Government may appoint in this behalf by name or by office, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such property, as such Magistrate or officer may, by written order, direct.

(2) All the provisions of this Act relating to census-officers shall apply, so far as they can be made applicable, to all such persons while performing such duties, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

5. (1) The District Magistrate, or such officer as the Local Government may appoint in this behalf by name or by office for any local area, may, by written order, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889, in his district or in such local area, as the case may be, or their agents, upon village-servants in permanently-settled estates in the Madras Presidency, and upon all members of panchayats appointed in his district or in such local area under the Village Chaukidari Act, 1870 (Bengal), or the Chota Nagpore Rural Police Act, 1887, or the Silhat and Kachar Rural Police Regulation, 1883, to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages for which such village-servants or panchayats are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and such village-servants and the members of such panchayats, shall be bound to obey it.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Asking of questions by census-officers.

Obligation to answer questions.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief:

Provided

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

9. (1) Subject to such orders as the Local Government may issue in this behalf, any census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

Penalties.

10. In any of the following cases, namely:—

- (a) if a census-officer without sufficient cause refuses or neglects to act as such,
 - (b) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,
 - (c) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,
 - (d) if any person occupying any house, enclosure, vessel or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,
 - (e) if any person removes, obliterated, alters or injures before the thirty-first day of March 1891, any letters, marks or numbers which have been painted or affixed for the purposes of the census,
 - (f) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,
- he shall be punished with fine which may extend to fifty rupees.

11. (1) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

Jurisdiction in prosecutions.

(2) Unless and until a notification is published under sub-section (1), all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

(3) No

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government, or with the previous sanction of some officer authorised by the Local Government in this behalf by name or by office.

12. Notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any book, register or record made by a census-officer in the discharge of his duty as such officer, and no entry in a schedule delivered under section 9, shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1882.

Records of census not admissible in evidence in certain proceedings.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India, during the year 1891, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

