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The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 1, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th December 1875, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 14 of 1875.

THE PRESIDENCY BANKS BILL, 1876.

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SCHEDULE.

A Bill for constituting and regulating the Banks of Bengal, Madras and Bombay.

Preamble.

WHEREAS the Bank of Bengal is now constituted and regulated by Act No. IV of 1862, as amended by Acts No. VI of 1862 and No. XIX of 1870, and its capital consists of twenty-two millions of rupees, in shares of one thousand rupees each;

And whereas the Bank of Madras is now constituted and regulated by Madras Act No. VI of 1866, as amended by Madras Act No. I of 1871, and its capital consists of five millions six hundred and twenty-five thousand rupees, in shares of one thousand rupees each;

And whereas a Bank named the Bank of Bombay was constituted and regulated by Bombay Act No. X of 1863, as amended by Bombay Acts

No. XV of 1866 and No. I of 1867; but such Bank has been wound up and the said Bombay Acts are now obsolete and should be expressly repealed;

And whereas on the tenth day of December 1867, a joint-stock Banking Company was registered and incorporated at Bombay, by virtue of the Indian Companies' Act, 1866, under the name of "The New Bank of Bombay, Limited," with a Memorandum of Association and Articles of Association then also registered, and prescribing the constitution and regulations for the management of such Bank;

And whereas the Government of India now holds two thousand two hundred shares in the said Bank of Bengal, and five hundred and sixty-two and a half shares in the said Bank of Madras; and, under the provisions of the said Acts, No. IV of 1862 and Madras Act No. VI of 1866, is bound to appoint, and has power to remove, certain of the directors of the said Banks of Bengal and Madras respectively, and has also power to give a proxy to any person whom the Governor General in Council may appoint, to attend and vote at any meeting of the proprietors of each of the same Banks;

And whereas the Government of India has determined to sell its said shares and to surrender its said powers; and it is expedient to relieve the said Government from the said duty of appointing directors, and to repeal the said enactments and to consolidate such of them as relate to the said Banks of Bengal and Madras respectively with the changes rendered necessary or desirable by such sale, surrender and relief;

And whereas it is expedient to reduce the said capital of the Bank of Bengal by two millions of rupees (being the nominal value of two thousand of the two thousand two hundred shares in the same Bank so held by the Government of India) and to reduce the said capital of the Bank of Madras by five hundred and sixty-two thousand five hundred rupees (being the nominal value of the shares in the same Bank so held by the Government of India), and to divide the capital so reduced of each of the said Banks into shares of five hundred rupees each;

And whereas it is expedient that the said New Bank of Bombay, Limited, should be reconstituted and regulated, in manner in this Act provided, under the name of the Bank of Bombay;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Banks Act, 1876;"

Commencement.

And it shall come into force on the *first* day of *March* 1876.

Repeal of enactments.

2. On and from that day the enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of such schedule. But all bye-laws and regulations made under any such enactment, and then in force, shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

References in Act X of 1866.

The references made in the Indian Companies' Act, 1866, to the Bank of Bengal, the Bank of Madras and the Bank of Bombay, shall be deemed to be made respectively to the Bank of Bengal, the Bank of Madras and the Bank of Bombay as constituted by this Act.

Interpretation-clause.

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

"The Bank" means the Bank of Bengal, the Bank of Madras, or the Bank of Bombay (as the case may be), as constituted and regulated by this Act:

"Capital" means the capital from time to time of the Bank:

"Shares" means the shares from time to time of the capital, and includes also half shares:

"Capital Stock" means that part of the capital into which wholly paid-up shares have been converted or consolidated, and in the case of the Bank of Bengal and the Bank of Madras includes the present consolidated stock of such Banks respectively:

"Registered" means registered in the books of the Bank:

"Shareholders" means the duly registered holders from time to time of the shares of the Bank:

"Proprietors" means the duly registered holders from time to time of the capital stock of the Bank:

"Directors" means the Directors from time to time of the Bank, or, as the case may be, the Directors assembled at a Board:

"Board" means a meeting of the Directors duly called and constituted, or, as the case may be, the Directors assembled at a Board:

"Auditors" and "Secretary and Treasurer" mean those respective officers from time to time of the Bank, and "Secretary and Treasurer" includes a Deputy Secretary:

"General Meeting" means the meeting of proprietors or shareholders or both, held annually under section forty-nine; it includes any adjourned holding thereof:

"Special Meeting" means a meeting of proprietors or shareholders or both, held for the transaction of some particular business specified in the notice convening the meeting; it includes any adjourned holding thereof:

"Special Resolution" means a resolution passed at a special meeting:

"Office" means the office or principal office for the time being of the Bank:

"Goods" includes also bullion, wares and merchandize:

"Presidency of Fort St. George" means the territories now under the government of the Governor of Fort St. George in Council:

"Presidency of Bombay" means the territories now under the government of the Governor of Bombay in Council; and

"Presidency of Fort William" means all the territories in British India other than the Presidency of Fort St. George and the Presidency of Bombay.

CHAPTER II.

CONSTITUTION.

Proprietors and shareholders of present Banks to form bodies corporate.

4. The several persons who, when this Act comes into force, are respectively the proprietors and shareholders of the said Bank of Bengal, Bank of Madras and New Bank of Bombay, Limited (hereinafter called the present Banks), or who shall, at any time thereafter, by virtue of this or any other Act regulating the Bank, become proprietors or shareholders, shall continue and constitute and be bodies corporate with perpetual succession, under the name,

in the case of the proprietors and shareholders of the said Bank of Bengal—of "The Bank of Bengal,"

in the case of the proprietors and shareholders of the said Bank of Madras—of "The Bank of Madras,"

and in the case of the shareholders and proprietors of the said New Bank of Bombay, Limited—of "The Bank of Bombay,"

and shall respectively possess and enjoy all the rights, powers and immunities incident by law to a corporation aggregate; subject, nevertheless, to the provisions of this or any other Act for the time being in force regulating the Bank.

Proprietors and shareholders of present Banks to be proprietors and shareholders of new Banks.

The several persons who are then proprietors and shareholders of each of the present Banks of Bengal and Madras, or the executors or administrators of such proprietors and shareholders respectively, shall be entitled to be registered as proprietors and holders of a like quantity of stock and a proportionate number of shares, as is or are then registered in their names respectively, or in the names of the persons whom they represent respectively in the books of each of the said present Banks of Bengal and Madras, two shares in the Bank of Bengal as constituted by this Act being deemed equivalent to one share in the present Bank of Bengal, and two shares in the Bank of Madras as constituted by this Act being deemed equivalent to one share in the present Bank of Madras,

and the several persons who are then shareholders of the said New Bank of Bombay, Limited, or the executors or administrators of such shareholders respectively, shall be registered as holders of a like number of shares of the Bank of Bombay as constituted by this Act as are then registered in their names respectively, or in the names of the persons whom they represent respectively, in the books of the said New Bank of Bombay, Limited; and all such shares upon which the sum of five hundred rupees has then been paid, shall be deemed to have been fully paid up.

Property of present Banks to vest respectively in new Banks.

5. All the property, moveable and immoveable, and all the securities, claims and demands, and the benefits of all agreements, of or to which the present Banks are or shall be respectively possessed or entitled, or which shall, or but for this Act might be, on the said first day of *March* 1876, or might at any time thereafter have been, due to, or claimed or asserted by, the said Banks respectively shall, by virtue of this Act, become vested in and devolve upon, and may be claimed, made and recovered by,

in the case of the said Bank of Bengal,—the Bank of Bengal as constituted by this Act;

in the case of the said Bank of Madras,—the Bank of Madras as constituted by this Act,

and in the case of the said New Bank of Bombay, Limited,—the Bank of Bombay as constituted by this Act;

and the Bank shall, from and after the said first day of *March* 1876, be liable and subject to all debts, demands, claims and liabilities which shall then be claimable from, or which, but for this Act, might be then, or might at any time thereafter, have been due or claimable from, or made, claimed, or asserted against, the said Bank of Bengal, Bank of Madras or New Bank of Bombay, Limited, as the case may be,

Claims against present Banks.

and no suit or legal proceeding then pending by or against the said Bank of Bengal, Bank of Madras or New Bank of Bombay, Limited, shall cease, or abate, or become defective, in consequence of this Act, but may be continued and prosecuted by or against the Bank.

New Bank of Bombay, Limited, wound-up.

6. The transfer of the assets and liabilities of the said New Bank of Bombay, Limited, to the Bank of Bombay by virtue of this Act, shall operate as a winding up and liquidation of the said New Bank of Bombay, Limited.

No shareholder or creditor of the said New Bank of Bombay, Limited, shall take any proceedings for winding-up the same under the Indian Companies' Act, 1866, or any Act for the time being in force relating to the winding-up of Companies;

and no person shall make, assert or take any claims, demands or proceedings against the same Bank, or the directors or officers thereof, except so far as may be necessary for enforcing the provisions of this or any other Act for the time being in force regulating the Bank of Bombay.

Banks to sue and be sued in corporate name,

7. The Bank shall sue and be sued by its said corporate name;

and shall use such corporate seal as the directors from time to time appoint;

and use corporate seals;

and may as such body corporate acquire and hold, either absolutely or conditionally, for a term or in perpetuity, any property whatsoever, moveable or immoveable, and transfer, assign and convey the same.

and may hold and transfer property.

Seal how used.

8. The seal of the Bank shall not be affixed to any instrument except in the presence of at least two directors and of the Secretary and Treasurer, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Unless so signed as aforesaid, such instrument shall be of no validity.

CHAPTER III.

BUSINESS.

Business which Banks may transact.

9. The Bank is authorized to carry on and transact the several kinds of business hereinafter specified (that is to say):

(*a*) the advancing and lending money, and opening cash-credits, upon the security of—

(1) promissory notes, debentures, stock and other securities of the Government of India;

(2) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(3) stock or debentures of, or shares in, Railway or other Companies, the interest whereon shall have been guaranteed by the Government of India;

(4) debentures or other securities for money issued by, or on behalf of, any municipal body under the authority of any Act of an Indian legislature;

(5) goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits; and

(6) bills of exchange and other negotiable securities, which may be discounted in accordance with the provisions of section ten, paragraph (*e*).

Provided that such advances and loans may be made, if the directors think fit, to the Governor General in Council, without any specific security;

(*b*) the selling and realization of the proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stock, shares, securities, or goods which, or the documents of title to which, have been deposited with, or assigned to, the Bank as security for such advances, loans or credits, or which are held by the Bank, or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank, and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit or assignment;

(*c*) the drawing, discounting, buying and selling of bills of exchange and other negotiable securities payable in India, or (in the case of the Bank of Madras) in Ceylon;

(*d*) the investing of the funds of the Bank upon any of the securities specified in paragraph (*a*) of this section, clauses (1), (2), (3) and (4),

and from time to time altering, converting and transposing such investments for or into others of the investments above specified;

(*e*) the making, issuing and circulating of bank-post-bills and letters of credit made payable in India, or (in the case of the Bank of Madras) in Ceylon, to order, or otherwise than to the bearer on demand;

(*f*) the buying and selling of bullion;

(*g*) the receiving of deposits and keeping cash-accounts on such terms as may be agreed on;

(*h*) the selling of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of debts and claims or otherwise;

(*i*) the transacting of pecuniary agency business on commission;

(*j*) the acting as agent on commission in the transaction of the following kinds of business (namely):—

(1) the buying and the taking charge of any Government or other securities, or shares in any Railway, Bank, Joint Stock, or other public Company;

(2) the receiving of the interest or dividends on any securities or shares;

(3) the purchase of any securities or shares;

(4) the sale or transfer of any securities or shares, or the receipt of any principal money that may be payable thereon;

(5) the investment of the principal and interest and dividends so received, or the proceeds of such sale as last aforesaid, upon any securities or shares, or, according to the instructions of its constituents, the holding or paying such principal, interest, dividends or proceeds, or, at the risk of such constituents, to remit the same by public or private bills of exchange, either payable in India or in Great Britain or Ireland, or elsewhere, and the doing of all acts necessary or proper for the purpose of effecting such remittances;

(*k*) the drawing of bills of exchange, and the granting of letters of credit, payable out of India, for the use of its constituents for the purpose of the remittances mentioned in the last preceding clause of this section;

(*l*) the buying, for the purpose of meeting such bills or letters of credit, of bills of exchange payable out of India, at any usance not exceeding six months.

(*m*) It shall also be lawful for the Bank under any arrangement or agreement with the Governor General in Council on behalf of the Secretary of State in Council

(1) to act as banker for, and to pay, receive, collect and remit money, bullion and securities on behalf of, the Government;

(2) to undertake and transact any other business which the Government may from time to time entrust to the Bank;

And the directors shall have power from time to time to arrange and settle with the Governor General in Council the terms of remuneration on which such business shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank by or on behalf of the Governor General in Council.

Business which Banks may not transact.

10. The directors shall not transact any kind of banking business other than those above specified, and in particular they shall not make any loan or advance—

(*a*) for a longer period than three months; or

(*b*) upon the security of stock or shares of the Bank of which they are directors; or

(*c*) upon mortgage, or in any other manner upon the security, of any immoveable property, or the documents of title relating thereto.

(*d*) Nor shall they lend or advance, by discount of bills or otherwise, to any individual or partnership firm, (except upon the security mentioned in section nine, paragraph (*a*), numbers (1) to (5) inclusive), any sums of money exceeding at any one time six hundred thousand rupees in the whole.

(*e*) Nor shall they discount any negotiable security of any individual or partnership firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership.

(*f*) Nor shall they discount any negotiable security having a longer period to run than three months: provided that, in the case of the Bank of Madras, the directors may discount negotiable securities payable in Ceylon having a period to run not exceeding four months.

11. Until the expiration of at least fourteen days after notice has been given by notification of the Governor General in Council published, in the case of the Bank of Bengal, in the *Gazette of India* and the *Calcutta Gazette*, and in the cases of the Bank of Madras and the Bank of Bombay, in the local official Gazette, that the Bank will no longer act as banker for, or pay, receive, collect or remit money, bullion and securities on behalf of the Government,

Sums payable by or to Government to be payable at Banks.

all sums payable by or to the Secretary of State for India in Council, or by or to the Governor General in Council, or the Government of Bengal or the Governor of Fort St. George in Council or the Governor of Bombay in Council, on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, or at the General Treasury at Madras, or at the General Treasury at Bombay,

shall be payable—

in the case of the Secretary of State for India in Council, or the Governor General in Council—at the office of the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be,

in the case of the Government of Bengal—at the office of the Bank of Bengal;

in the case of the Governor of Fort St. George in Council—at the office of the Bank of Madras; and

in the case of the Governor of Bombay in Council—at the office of the Bank of Bombay.

12. Whenever presentment of any promissory note, bond or other security for payment or any other purpose at any of the said General Treasuries would heretofore have been necessary or sufficient, presentment for such purpose shall be necessary or sufficient (as the case may be) until the expiration of fourteen days after the giving of the notice mentioned in section eleven—

Presentment of promissory notes at Banks.

in the case of the General Treasury of Fort William—at the office of the Bank of Bengal;

in the case of the General Treasury at Madras—at the office of the Bank of Madras; and

in the case of the General Treasury at Bombay—at the office of the Bank of Bombay.

Nothing in this section shall render it necessary to present at the office of the Bank of Bengal, the Bank of Madras, or the Bank of Bombay any security which need not have been presented at one of the said General Treasuries.

* * *

13. The office of the Bank of Bengal shall be at Calcutta, that of the Bank of Madras shall be at Madras, and that of the Bank of Bombay shall be in the Island of Bombay;

Place of business.

and the business of the Bank shall be carried on at its office, and, subject to the provisions of section fifteen, at such other place or places in India as the Board may deem advisable.

14. For the purpose of providing offices and places in and at which to carry on and manage the business of the Bank, the directors may—

Acquisition of business premises.

(*a*) hire, take, or acquire by purchase, lease or otherwise, lands, houses or buildings, on such terms, as they may from time to time think advisable;

(*b*) build on any land hired, taken or acquired as aforesaid, or pull down, alter, remove or convert any such houses or buildings, and erect and build other houses and buildings in lieu thereof on any such land;

(*c*) fit up, furnish, repair and insure against loss by fire all or any of such houses or buildings; and let, or give possession of, the whole or any part of the same, whether fitted up or furnished, or otherwise, to such person, and on such terms as they consider advisable with regard to the interests of the Bank, and the promotion or carrying on of its business;

(*d*) sell and buy in any such lands, houses or buildings as aforesaid, and resell the same, and otherwise deal with all or any part of the same as they may consider most conducive to the interests of the Bank.

15. It shall be lawful for the directors to maintain as branches or agencies of the Bank, any branches or agencies of the present Banks, which may be in existence on the *first* day of *March* 1876,

Establishment of branches and agencies.

and, from time to time, to establish branches or agencies at such places within the Presidency in which the Bank is situate as they deem advantageous to the interest of the Bank,

and, with the previous consent of the Governor General in Council, and subject to such restrictions as to the business to be transacted as he thinks fit in each case to impose (such consent and restrictions being notified in the *Gazette of India*), to establish branches or agencies at such places outside the Presidency in which the Bank is situate, as the directors deem advantageous for the interests of the Bank:

Provided that the agency of the Bank of Bengal now established in Bombay shall not advance or lend money, or open cash-credits on securities, or receive deposits and keep cash-accounts, or discount bills of exchange drawn and payable in the Presidency of Bombay,

Proviso.

and shall not act as agent on commission, or transact any business except as agent of the same Bank, or any of its branches or other agencies.

The directors may discontinue any branch or agency maintained or established under this section.

16. The directors may, if authorized to do so by a special resolution, from time to time, purchase the business of any other Bank in British India, of which the capital is divided into shares, upon such terms as may be agreed on in each case, and may pay for any business so purchased either in cash, or in shares, or partly in cash or partly in shares, and, for that purpose, may increase, within the limits prescribed by section seventeen, the capital of the Bank by the issue of such number of shares as may be determined on.

Power to purchase business of other Banks.

The shareholders or proprietors of the purchased Bank to whom such new shares are allotted shall be shareholders of the Bank, and be in all respects in the same position as if they had respectively subscribed and paid for the shares so allotted to them.

The business so purchased shall, after the purchase, be carried on by the Bank with, and subject to, the several restrictions contained in this Act.

CHAPTER IV.

CAPITAL.

17. The capital of the Bank of Bengal shall consist of twenty millions of rupees in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to thirty millions of rupees.

Capital of Bank of Bengal.

The capital of the Bank of Madras shall consist of five millions sixty-two thousand five hundred rupees, in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twelve millions of rupees.

Capital of Bank of Madras.

The capital of the Bank of Bombay shall consist of ten millions of rupees in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twenty millions of rupees.

Capital of Bank of Bombay.

18. The capital of the said New Bank of Bombay, Limited, already created, shall, on the *first* day of *March* 1876, constitute the capital of the Bank of Bombay, subject to be increased as aforesaid.

Capital of New Bank of Bombay, Limited, to be capital of Bank of Bombay.

19. Any shareholder may from time to time surrender his wholly paid-up shares, or any of them, to the directors, and demand and receive from the Bank, in lieu thereof, capital stock to the like amount as represented by the shares so surrendered,

Surrender of paid-up shares for stock.

and any proprietor may from time to time surrender his stock, or any portion thereof, to the directors, and demand and receive from the Bank in lieu thereof shares to the like amount, or as near thereto as practicable.

Surrender of stock for shares.

20. The proprietors and shareholders of the Bank may from time to time by special resolution and with the previous sanction of the Governor General in Council increase or reduce the capital of the Bank:

Power to increase or reduce capital.

Provided that no such special resolution shall be deemed to have been passed, unless at least one-half in number of the shareholders or proprietors, holding at least one-half of the paid-up capital of the Bank for the time being, be present in person or by proxy, and a majority poll by open voting in favour of the said resolution.

21. When any such special resolution to increase the capital has been passed, the directors may, subject to the provisions of this or any other Act for the time being in force regulating such Bank, and to the special direction (if any) given in reference thereto by the meeting at which such resolution has been passed,

Procedure on resolution to increase capital.

(*a*) make such orders as they think fit for the opening of subscriptions towards such increase of capital by the proprietors and shareholders;

(*b*) allow to the proprietors and shareholders such period to fill up the subscription as to the directors seems fit;

(*c*) prescribe the manner in which the proprietors and shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe; and

(*d*) make such orders as the directors think fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in manner aforesaid:

Provided that the capital, including any increase therein that may be made under section sixteen, shall not exceed, in the case of the Bank of Bengal, thirty millions of rupees, in the case of the Bank of Madras, twelve millions of rupees, and in the case of the Bank of Bombay, twenty millions of rupees.

22. When any such special resolution to reduce the capital has been passed, the directors may (subject as aforesaid) prescribe the manner in which the reduction shall be carried into effect.

Procedure on resolution to reduce capital.

23. Any new capital created under the provisions of section twenty shall be subject to the provisions of this or any other Act regulating the Bank in force for the time being.

New capital to be subject to provisions of Act.

CHAPTER V.

FORFEITURE OF STOCK AND SHARES.

24. If any proprietor or shareholder become indebted to the Bank, the Bank may withhold payment of the dividends on the stock or shares of such proprietor or shareholder registered as his own property, and not as held in trust, or as executor or administrator, until payment of such debt, and apply such dividends in or towards payment thereof;

Powers in regard to proprietors or shareholders indebted to Bank.

and, after demand and default of payment, and notice in that behalf given to such proprietor or

shareholder, or his constituted agent, or by public advertisement in the local official Gazette, the Bank may refuse to register the transfer of any such stock or shares until payment of such debt;

and, if the same remain unpaid for the space of three months after such notice, the Bank may advertise in the local official Gazette such stock or shares for sale on a day not less than fifteen days from the publication of such advertisement;

and may, on such day, sell by public auction such stock or shares, or so much or so many thereof as may be necessary, and apply the proceeds thereof in or towards payment of the said debt, with interest, from the day appointed for the payment of such debt to the time of actual payment, at such rate as may have been agreed upon, or, in the absence of such agreement, at the highest rate current for advances by way of local discounts by the Bank;

and shall pay over the surplus, if any, to such proprietor or shareholder or to his lawful representative.

and the purchasers of all stock or shares sold under this section shall upon payment of the consideration therefor be registered as proprietors or shareholders in respect of such stock or shares, and all such stock and shares shall be subject to the other provisions of this or any other Act regulating the Bank in force for the time being.

CHAPTER VI.

CERTIFICATES, TRANSFER AND TRANSMISSION OF SHARES AND STOCK.

Certificates for shares.

25. Every shareholder shall be entitled to a certificate, under the corporate seal of the Bank, and signed by two Directors and the Secretary and Treasurer, specifying the shares held by him, and in the case of shares which are not wholly paid up, the amount paid thereon,

and any holder of more than one half share may, at his option, demand a certificate for each such half share, or one or more certificates for all or any of such half shares, and such certificate or certificates shall be delivered to him accordingly: provided that the number of such certificates shall in no case exceed the number of half shares in respect of which they are so delivered.

Receipts for stock.

Every proprietor of capital stock shall be entitled to a receipt signed by two Directors and the Secretary and Treasurer, and specifying the amount of stock held by him and any such proprietor may, at his option, demand one receipt for the whole of the stock, or separate receipts for any portions of the stock, so held by him, and such receipt or receipts shall be delivered to him accordingly: Provided that no receipt shall be delivered for a portion of stock less than two hundred and fifty rupees.

Fees for certificates and receipts.

For every certificate and receipt delivered under this section there shall be paid such fee as may for the time being be prescribed under section sixty-three: Provided that no fee shall be payable for certificates or receipts delivered to the persons referred to in section four for shares in or stock of the Bank.

Certificates and receipts to be evidence.

Every such certificate and receipt shall be *primâ facie* evidence of the title of the shareholder or proprietor to the shares or stock therein specified.

Stock and shares to be moveable property.

26. The stock and shares of every proprietor and shareholder shall be moveable property, capable of being transferred in manner provided by the regulations contained herein, or in any other Act regulating the Bank for the time being in force, and shall not be of the nature of immoveable property; and each share shall be distinguished by its appropriate number.

Form of transfer to be approved by Board.

27. Every transfer of stock or shares shall be in such form as the Board from time to time may approve, and shall be presented to the Bank accompanied by such evidence as the Board may require to prove the title of the transferor.

Board may require evidence of transmission.

Every such transfer shall be verified in manner as the Board require, and the Board may refuse to register any such transfer until the same be so verified, and, in the case of shares not fully paid up, unless the transferee is approved by the Board.

Board may decline to register certain transfers.

The Board may refuse to register any transfer of stock or shares registered as the property of any proprietor or shareholder and not as held in trust or as executor or administrator, whilst such proprietor or shareholder is either alone, or jointly with any other person, indebted to the Bank on any account.

Transferor to remain proprietor till transfer registered.

The transferor shall be deemed to remain the proprietor or holder of the stock or shares transferred until the name of the transferee is registered in respect thereof.

Power to close transfer-books.

28. The directors may from time to time close the register and transfer-books of the Bank for any period or periods not exceeding in the whole thirty days in any twelve consecutive months.

Corporation to consist of registered proprietors or shareholders only.

29. The proprietors and shareholders for the time being, and no other persons, shall be members respectively of the bodies corporate hereby constituted,

Notice of trusts.

and, save as provided by section twenty-four, the Bank shall not be bound or affected by notice of any trust to which any stock or share may be subject in the hands of the proprietor or holder thereof;

Shares vested in several holders.

and when any stock or share is vested in more than one proprietor or holder, such proprietors or shareholders shall, as between themselves and the Bank, be considered as joint tenants with benefit of survivorship:

Provided that, as regards voting at meetings, service of notices, and receipt of dividend, the person first named in the register may, at the option of the Board, be deemed the sole holder of such stock or share.

Recognition of legal representatives of deceased shareholders.

30. When, by the death of any proprietor or shareholder, his stock or shares shall devolve on his legal representative, the Bank shall not be bound to recognise any legal representative of such deceased proprietor or shareholder other than a person who has taken out probate to the will, or letters of administration to the estate, of the deceased—

in the case of the Bank of Bengal, from the High Court of Judicature at Fort William;

in the case of the Bank of Madras, from the High Court of Judicature at Madras; and

in the case of the Bank of Bombay, from the High Court of Judicature at Bombay;

in the case of any of the said Banks, a probate granted by any of the said High Courts and taking effect throughout the whole of British India;

or who has obtained a certificate in respect of the estate of the deceased under Act No. XXVII of 1860, or any other Act relating to the collection of debts on successions, describing such stock or shares, from a Court of competent jurisdiction within the Presidency of Fort William, the Presidency of Madras, or the Presidency of Bombay, as the case may be.

Transmission on insolvency or marriage.

31. Any person becoming entitled to stock or shares in consequence of the bankruptcy or insolvency of any proprietor or shareholder, or in consequence of the marriage of any female proprietor or shareholder, may be registered as a proprietor or shareholder upon such evidence being produced as the directors may from time to time require.

CHAPTER VII.

DIRECTORS.

Board.

32. The business of the Bank shall be managed by the Board, which shall in the first instance consist of six directors, and may subsequently consist of such number, not less than six, and not more than nine, as may be fixed by a special resolution.

Such directors shall be selected by vote of a general or special meeting.

Quorum.

Three of the directors shall form a quorum for the transaction of business.

Present directors to be continued.

33. The persons who, on the *first* day of *March* 1876, are respectively directors of the Bank of Bengal, the Bank of Madras, and the New Bank of Bombay, Limited, shall be respectively directors of the Bank of Bengal, the Bank of Madras, and the Bank of Bombay, as constituted by this Act, subject to removal as hereinafter provided and to the other provisions herein contained.

Two directors to go out by rotation annually.

34. The two directors who have been longest in office shall go out of office at the general meeting.

Any director so retiring shall be eligible for re-election at such meeting, and, if any question arise as to which of the directors who have been the same time in office shall retire, such question shall be decided by the directors by ballot.

Qualification of directors.

35. *Clause* 1.—No person shall be eligible or qualified to serve as a director of a Bank who is not a proprietor or holder in his own right of unencumbered stock or shares of such Bank, to the amount of ten thousand rupees at the least.

Disqualification of directors.

Clause 2.—No person shall be eligible or qualified to serve as a director—

If he holds the office of director, provisional director, promoter, agent or manager of any other Bank established, or having a branch or agency, in British India; or advertised as about to be established, or to have a branch or agency, in British India;

If he is a Judge of any High Court; or

If he is a salaried officer of Government not specially authorised by the Governor General in Council to serve as a director;

And the office of director shall be vacated—

If the person holding it accepts or holds any other office of profit under the Bank;

If he becomes bankrupt or insolvent, or compounds with his creditors;

If he is declared lunatic, or becomes of unsound mind;

If he is absent from the Board for more than three consecutive months;

If he ceases to hold in his own right the amount or number of stock or shares required to qualify him for the office.

Co-partners of same firm not to serve as directors at same time.

Clause 3.—No two persons who are partners of the same mercantile firm, or one of whom is the general agent of, or holds a power of procuration from, the other or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as directors at the same time.

Power to remove directors.

Clause 4.—The proprietors or shareholders may, by a special resolution passed by the votes of proprietors or shareholders holding in the aggregate not less than one-half of the capital, remove any director before the expiration of his period of office, and appoint, in his stead, a qualified person, who shall in all respects stand in his place.

Directors to choose president and vice-president.

36. At the first meeting of the directors in every year, they shall choose a president and vice-president from among themselves, and whenever the office of president or vice-president becomes vacant, they shall, at their next meeting, choose a successor for the remainder of the current year.

Chairman.

The president, or in his absence the vice-president, shall be chairman at all meetings whether of directors or of proprietors or shareholders, or of proprietors and shareholders, and shall have an additional or casting vote in all cases of an equal division of votes. Provided that if both the president and vice-president be absent at any meeting the directors present shall elect a chairman for such meeting from among themselves, and such chairman shall, in case of an equal division of votes, have an additional or casting vote.

Casting vote.

37. The Board shall have power at any time, and from time to time, to supply any vacancies in their number arising from the death, resignation, or disqualification under section thirty-four, of any director, or from his temporary absence from the Board exceeding one month.

Vacancies among directors how filled up.

Any director so appointed shall, for the purposes of section thirty-four, be considered to have held office from the date on which the director in whose place he is appointed was elected, or (where such director was appointed under this section) from the date on which his mediate or immediate predecessor was elected.

38. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Acts of directors valid notwithstanding subsequent discovery of disqualification.

CHAPTER VIII.

OFFICERS OF THE BANK.

39. The directors shall have power—

Appointment, salaries, suspension and removal of officers.

to appoint such officers, clerks and servants as may be necessary to conduct the business of the Bank,

to fix the salaries of such officers, clerks and servants, and

to suspend or remove any officer, clerk or servant of the Bank.

40. The Secretary and Treasurer and Secretary of the Bank are hereby severally empowered for and on behalf of the Bank to endorse and transfer promissory notes, stock-receipts, stock, debentures, shares, securities, and documents of title to goods, standing in the name of, or held by, the Bank,

Accounts, receipts and documents of Bank by whom to be signed.

and to draw, accept and endorse bills of exchange, bank post-bills, and letters of credit, in the current and authorized business of the Bank,

and to sign all other accounts, receipts and documents connected with such business.

41. No Secretary and Treasurer, Secretary, Inspector, Agent, Manager, or Accountant, in the service of the Bank,

Officers forbidden to engage in other commercial business.

and no Khazánchi or Shroff in the service of the Bank at the principal office,

and, without the previous sanction of the Board, no Khazánchi or Shroff at any branch or agency of the Bank,

shall engage in any other banking or commercial business, either on his own account or as agent for any other person or persons, or shall act as broker for the sale or purchase of Government or other securities.

42. Every person appointed to hold, or act in, any one or more of the said offices, and every other officer from whom the directors may from time to time think fit to require it, shall give security to the directors, for the faithful discharge of his duty to the satisfaction of the directors, in such amount and in such manner as they think proper.

Security from officers.

The security to be given as aforesaid by the person holding or acting in the office of Secretary and Treasurer shall not be in a less amount than fifty thousand rupees.

CHAPTER IX.

ACCOUNTS AND DIVIDENDS.

43. The directors shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

Books to be balanced twice a year.

A statement of the balance at every such period, signed by a majority of the directors, shall be forthwith sent to a Secretary to the Government of India, and in the cases of the Bank of Madras and the Bank of Bombay, also to a Secretary to the Local Government.

The Governor General in Council in the case of each of the said Banks, and the Local Government in the case of the Bank of Madras and the Bank of Bombay, shall (so long as any such arrangement with the Government as aforesaid, which has already been, or shall hereafter be, entered into remains in force) at all times be entitled to require of the directors any information touching the affairs of the Bank and the production of any document of the Bank,

and in the case of each of the said Banks the Governor General in Council may require the publication of such statements of its assets and liabilities at such intervals and in such form and manner as the Governor General in Council thinks fit.

Every requisition under this section shall be signified in writing under the hand of a Secretary to the Government of India or to the Local Government (as the case may be), and the directors shall comply with every such requisition.

44. An account of the profits of the Bank during the previous half-year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June,

Dividends to be determined half-yearly.

and a dividend thereof shall be made as soon thereafter as conveniently may be,

and the amount of such dividend shall be determined by the directors, subject to the provisions of section forty-five;

No unpaid dividend shall bear interest as against the Bank.

45. The directors, before declaring any dividend, may set aside out of the profits of the Bank such a sum as they think proper as a reserve-fund, and invest the same upon any of the securities specified in section nine, paragraph (*a*), clauses (1), (2), (3) and (4).

Reserve-fund.

46. The directors may from time to time apply such portion as they think fit of the reserve-fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the buildings and business premises of the Bank, or any part thereof, or for any other purposes of the Bank, which they from time to time deem expedient.

Application of reserve-fund.

CHAPTER X.

AUDIT.

47. Two auditors shall be elected and their remuneration fixed at the annual general meeting.

Election of auditors.

The auditors may be proprietors or shareholders; but no person shall be elected auditor who is interested, otherwise than as a proprietor, shareholder or depositor, in any transaction of the Bank; and no director or other officer of the Company is eligible during his continuance in office.

Who may be auditors.

Any auditor shall be re-eligible on his quitting office.

Auditors re-eligible.

The persons who shall be auditors on the *first* day of *March* 1876, and all auditors elected under this section, shall severally be and continue to act as auditors until the first general meeting after their respective elections:

Auditors' tenure of office.

Provided that if any casual vacancy occurs in the office of any auditor, the directors shall forthwith call a special meeting for the purpose of supplying the same.

Supply of casual vacancy in office.

48. Every auditor shall be supplied with a copy of the half-yearly balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

Rights and duties of auditors.

Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books and accounts of the Bank, and may (at the expense of the Bank) employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine the directors or any other officer of the Bank.

The auditors shall make a report to the proprietors and shareholders upon the annual balance-sheet and accounts; and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by the bye-laws made under this Act and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the directors, whether it has been given by the directors and whether it has been satisfactory.

Such report shall be read together with the report of the directors at the annual general meeting.

CHAPTER XI.

MEETINGS.

49. On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held, at which the directors shall submit to the proprietors and shareholders a statement of the affairs of the Bank made up to the preceding thirtieth day of June.

Annual general meeting.

A notice convening such meeting, signed by the Secretary and Treasurer, shall be published in the local official Gazette, and in the case of the Bank of Bengal also in the *Gazette of India*, at least fifteen days before the meeting is held.

50. Any ten or more proprietors or shareholders holding stock or shares, or both, to the aggregate amount of fifty thousand rupees, or any three directors, may convene a special meeting upon giving fifteen days' previous notice of such meeting, and of the purpose for which the same is convened, as well to the directors as also by public advertisement in the local official Gazette, and in two of the English and one of the Vernacular daily newspapers:

Special meetings.

Provided that three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank.

51. No business shall be transacted at any meeting, whether general or special, unless a quorum of twenty proprietors or shareholders, or both, in person or by proxy, is present at the commencement of such business.

Quorum.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by proprietors or shareholders not being directors, shall be dissolved: in any other case it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present it shall be adjourned *sine die*.

52. At meetings whether general or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, except as in section twenty and in section thirty-five, clause 4, is specially provided,

Decision by majority of votes.

and no person shall be allowed to vote at any such meeting in respect of any stock or share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

Persons not allowed to vote.

And no shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

Shareholders in arrear as to calls.

53. A declaration by the chairman of any meeting, except a special meeting held under section twenty, that a resolution has been carried thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution, unless, immediately on such declaration, a poll be demanded in writing by five proprietors or shareholders present and entitled to vote at such meeting.

Power to declare resolution carried by show of hands.

54. If a poll be demanded, it shall be taken at such time and place, and (except at the special meeting last aforesaid) either by open voting or by ballot, as the chairman directs

Poll to be taken, if demanded.

and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Proceedings and resolutions at meetings to be binding.

55. The proceedings at any meeting, and all resolutions and decisions of such meeting, shall be valid and binding on the Bank, so far as such proceedings, resolutions and decisions are consistent with the provisions of this or any other Act for the time being in force and regulating the Bank.

Scale of votes.

56. At all such meetings, the proprietors or shareholders shall vote according to the following scale:—

The proprietor of capital stock amounting to Rs. 2,000, or the holder of shares of which the total nominal amounts are equal to Rs. 2,000, shall be entitled to ...	1 vote.
The proprietor of capital stock amounting to Rs. 10,000, or the holder of shares of which the total nominal amounts are equal to Rs. 10,000, shall be entitled to ...	2 votes.
The proprietor of capital stock amounting to Rs. 20,000, or the holder of shares of which the total nominal amounts are equal to Rs. 20,000, shall be entitled to ..	3 „
The proprietor of capital stock amounting to Rs. 30,000, or the holder of shares of which the total nominal amounts are equal to Rs. 30,000, shall be entitled to ...	4 „
The proprietor of capital stock amounting to Rs. 40,000, or the holder of shares of which the total nominal amounts are equal to Rs. 40,000, shall be entitled to ...	5 „
The proprietor of capital stock amounting to Rs. 50,000, or the holder of shares of which the total nominal amounts are equal to Rs. 50,000, shall be entitled to ...	6 „
The proprietor of capital stock amounting to Rs. 60,000, or the holder of shares of which the total nominal amounts are equal to Rs. 60,000, shall be entitled to ...	7 „

Where a person is both a proprietor of stock and a holder of shares, his shares shall, for the purpose of this section, be deemed to be stock.

No proprietor or shareholder shall be entitled to more than seven votes at any such meeting.

Proxies of proprietors or shareholders.

57. Any proprietor or shareholder entitled to vote at any meeting under this Act may give a proxy in writing, either general or special, under his hand or the hand of his attorney duly authorized, to any other proprietor or shareholder.

Such proxy shall be produced at the time of voting, and shall entitle the person to whom it is given to vote on such matters as shall be authorized by the tenor of such proxy.

But no person shall be permitted to vote in virtue of such proxy unless it has been left for registration at the office of the Bank at least three clear days before the time for holding the meeting at which it is intended to be used:

Provided that a general proxy which has been registered at such office need not be again left for registration previous to any subsequent meeting.

Existing proxies.

Proxies existing and in force with reference to any of the present Banks, on the *first* day of *March* 1876, shall continue in force and be available at meetings under this Act, anything herein contained notwithstanding.

Voting by lunatic and minor shareholders.

58. If any proprietor or shareholder is a lunatic or idiot, he may vote by his committee or other legal curator, and if any proprietor or shareholder is a minor, he may vote by his guardian, or any one of his guardians, if more than one.

CHAPTER XII.

NOTICES.

Service of notices by Bank.

59. Every notice or other document requiring to be served by the Bank upon any proprietor or shareholder may be served either personally, or by leaving it for, or sending it through the post by registered letter addressed to, him at his registered place of abode;

and every notice sent through the post shall be deemed to have been served at the time at which, in the usual course of post, it would have been delivered.

Notices by shareholders.

60. Every notice to be given on the part of any proprietor or shareholder shall be left at the office of the Bank, or sent through the post by registered letter addressed to the Secretary and Treasurer of the Bank at its principal office.

Shareholder bound by notices, to previous holders.

61. Every person who by operation of law, transfers or otherwise becomes entitled to any stock or shares, shall be bound by any and every notice or other document which, previously to his name and address being entered upon the register of the Bank in respect of such stock or shares, has been given to the person from whom he derives his title thereto.

Service of notices good notwithstanding shareholder's death.

62. When any notice or document is delivered or sent, in accordance with this Act, at or to the registered place of abode of a proprietor or shareholder, then, and notwithstanding he be then deceased, and whether or not the Bank have notice of his decease, such service of the notice or other document shall, for all purposes of this Act, be deemed service thereof on him, or, if dead, on his heirs, executors, administrators, and every of them.

CHAPTER XIII.

BYE-LAWS.

Power of directors to make bye-laws.

63. The directors may from time to time make bye-laws, regulating the following matters or any of them:—

(*a*) the distribution of business amongst the directors,

(*b*) their remuneration,

(*c*) the delegation of any powers of the directors to committees consisting of members of their body,

(*d*) the procedure at the meetings of the board or of any committee of the directors,

(*e*) the bills which may be discounted and the amount which may be advanced by way of discount,

(*f*) the limits for advances and the conditions on which they may be made,

(*g*) the circumstances under which alone advances may be made to directors or officers of the Bank, or the relatives of such directors or officers, or to companies, firms or individuals with which or with whom such directors, officers, or relatives are connected as partners, directors, managers, servants, shareholders, or otheriwse,

(*h*) the books and accounts to be kept at the head and other offices respectively,

(*i*) the reports and statements to be prepared and made by the Chief Accountant, the heads of departments, and the other officers of the Bank,

(*j*) the particulars to be contained in the half-yearly balance-sheet,

(*k*) the proportion which the reserve fund must bear to the paid-up capital at the time of declaring or paying any dividend,

(*l*) the management of the branches and agencies,

(*m*) the fees payable for certificates of shares or receipts for stock, or for registration of transfers of shares or stock,

(*n*) the renewal of certificates of shares and receipts for stock, which have been worn-out or lost,

(*o*) and, generally, for the conduct of the business of the Bank;

Power of proprietors and shareholders to make bye-laws.

and the proprietors and shareholders may, from time to time, at any meeting, whether general or special, make bye-laws regulating the matters mentioned in clauses (*a*) to (*o*), both inclusive, of this section, and otherwise for the direction of the affairs of the Bank, and the same shall be binding on the directors and officers, and on the proprietors and shareholders, until rescinded or varied at any subsequent meeting:

Proviso.

Provided that no bye-law, or alteration or rescission of any bye-law, whether made by the directors or by the proprietors and shareholders, shall be of any validity, except in so far as the same is consistent with the provisions of this Act, and has been previously approved by the Governor General in Council, and such approval has been signified in writing under the hand of a Secretary to the Government of India.

CHAPTER XIV.

MISCELLANEOUS.

Power to institute and compromise suits.

64. The directors may institute, conduct, defend, compromise, refer to arbitration and abandon legal and other proceedings and claims by or against the Bank or the directors or officers of the Bank, and otherwise concerning its affairs.

Evidence in legal proceedings against shareholders.

65. In any suit brought against any shareholder to recover any debt due for any call or other monies due from him in his character of shareholder, it shall be sufficient to allege that the defendant is a shareholder of the Bank, and is indebted to the Bank in respect of a call made or other monies due, whereby a right to sue has accrued to the Bank;

and, on the hearing of any suit to be brought by the Bank against any shareholder to recover any debt due for any call, it shall be sufficient to prove that the name of the defendant is on the register of shareholders of the Bank as the holder of the shares in respect of which such debt accrued, and that the call was made, and that notice of such call was duly given to the defendant in pursuance of this or any other Act for the time being in force regulating the Bank;

and it shall not be necessary to prove the appointment of the directors who made such call, nor that a quorum of directors was present at the Board at which such call was made, nor that the meeting at which it was made was duly convened or constituted.

Modification of 33 Geo. III, sess. 2, cap. 52.

66. Nothing in the Thirty-third of George the Third, session two, chapter fifty-two, shall be deemed to render it unlawful for any servant of Government, or for any Judge of a High Court, to become a member of any corporation established under this Act.

Sale to Banks of Bengal and Madras of Government shares therein.

67. And whereas the Government of India has agreed to sell, and the directors of the present Bank of Bengal have agreed to purchase, at a premium of twenty-two and a half per centum, the said two thousand two hundred shares of one thousand rupees each held by the Government of India in the same Bank; and it is intended that the directors of the Bank of Bengal as constituted by this Act shall cancel two thousand of such shares, and sell for the benefit of the Bank four hundred shares in the same Bank corresponding with the remaining two hundred shares so agreed to be sold and purchased;

And whereas the Government of India has agreed to sell, and the directors of the present Bank of Madras have agreed to purchase, at a premium of ten per centum, the said five hundred and sixty-two and a half shares held by the Government of India in the same Bank: and it is intended that the directors of the Bank of Madras as constituted by this Act shall cancel the same shares;

And whereas the said respective directors of the present Bank of Bengal and Bank of Madras had no power to enter into the said agreements, and the directors of the Bank of Bengal as constituted by this Act have no power to sell the four hundred shares referred to in this section;

And whereas the respective directors of the Bank of Bengal and Bank of Madras as constituted by this Act have no power to cancel the said two thousand shares or the said five hundred and sixty-two and a half shares;

And whereas it is expedient to confirm the said agreements, and to indemnify the said respective directors of the present Bank of Bengal and Bank of Madras for entering into the same, and to empower the directors of the Bank of Bengal as constituted by this Act to sell the said four hundred shares, and to empower the respective directors of the Bank of Bengal and Bank of Madras as constituted by this Act to cancel the said shares so intended to be cancelled; It is hereby further enacted as follows:—

(*a*).—The said agreements are hereby confirmed, and the said respective directors of the present Bank of Bengal and Bank of Madras are hereby indemnified for entering into the same; and no suit or other proceeding shall be maintained against any such director in respect of any thing *bonâ fide* done in pursuance of either of such agreements.

(*b*).—The directors of the Bank of Bengal as constituted by this Act shall have power to sell, and shall, as soon as conveniently may be, sell, the said four hundred shares, either together or in parcels, and either by public auction or private contract, and shall apply the proceeds in or towards paying the price of the shares of the Government of India so agreed to be purchased by the directors of the present Bank as aforesaid, or otherwise for the benefit of the Bank of Bengal as constituted by this Act.

(*c*).—The directors of the Bank of Bengal as constituted by this Act shall have power to cancel, and shall, as soon as conveniently may be, cancel, the said two thousand shares, and the directors of the Bank of Madras as constituted by this Act shall have power to cancel, and shall, as soon as

conveniently may be, cancel, the said five hundred and sixty-two and a half shares.

SCHEDULE.

(SEE SECTION 2.)

Part I.—Statute.

Number and year.	Abbreviated title.	Extent of repeal.
47 George III, sess. 2, cap. 68.	An Act for the better government of the Settlements of Fort St. George and Bombay, &c.	Sections eight, nine, and ten.

Part II.—Acts of the Governor General in Council.

Number and year.	Title.	Extent of repeal.
IV of 1862	An Act for regulating the Bank of Bengal.	The whole.
V of 1862	An Act to provide for the payment at the Banks of Bengal, Madras and Bombay, of monies payable at the General Treasuries of Calcutta, Madras and Bombay.	The whole.
VI of 1862	An Act to annex a schedule to Act IV of 1862.	The whole.
XXIX of 1863	An Act to declare the receipts of the Banks of Bengal, Madras and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George and Bombay, respectively.	The whole.
XIX of 1870	An Act to enable the Directors of the Bank of Bengal to act by a quorum.	The whole.

Part III.—Acts of the Governor of Fort St. George in Council.

Number and year.	Title.	Extent of repeal.
VI of 1866	An Act for repealing Madras Act V of 1862, and for regulating the Bank of Madras.	The whole.
I of 1871	An Act to amend Madras Act VI of 1866, to give validity to certain acts done by the Directors of the Bank of Madras, and to enable outgoing Directors to be re-elected.	The whole.

Part IV.—Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of repeal.
X of 1863	An Act for the Re-incorporation and re-constitution of the Bank of Bombay.	The whole.
XV of 1866	An Act to amend Act No. X of 1863 (Bombay).	The whole.
I of 1867	An Act to reduce the amount of the capital of the Bank of Bombay and of the shares thereon, and to amend Act X of 1863 and Act XV of 1863 (Bombay).	The whole.

STATEMENT OF OBJECTS AND REASONS.

The Government of India is a shareholder in the Banks of Bengal and Madras, and it appoints certain of the directors, and may vote by proxy at the meetings of the proprietors.

The Government has, however, determined to sell its shares and to surrender its powers of appointing directors and voting. As those powers are conferred by Acts of Indian legislatures, and as some of the arrangements connected with the sale are beyond the powers of the directors, the present Bill is necessary.

The opportunity has been taken to repeal the present law on the subject, to consolidate the Acts relating to the Banks of Bengal and Madras, and to incorporate the New Bank of Bombay, Limited.

At the same time the Bill proposes to make certain changes, of which the following are the principal:—

(*a*). The capital of the Bank of Bengal will be reduced from Rs. 22,000,000 to Rs. 20,000,000, and that of the Bank of Madras from Rs. 5,625,000 to Rs. 5,062,500.

(*b*). The capital of those two Banks, which is now divided into shares of Rs. 1,000 each, will be divided into shares of only Rs. 500 each.

(*c*). The kinds of business which the Banks may transact are increased in number. They are empowered to lend upon the security of debentures of Indian municipalities, on goods the documents of title to which are assigned to the Banks as security, and on negotiable securities which, under the provisions of the proposed Act, may be discounted. They may also lend to the Governor General in Council without any specific security. On the other hand, they are expressly forbidden to make loans for a longer period than three months; to make unsecured loans to the same person or firm for more than six lákhs of rupees; to discount any negotiable security, payable where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected in general partnership; or to discount negotiable securities having a longer period to run than three months, except in the case of the Bank of Madras, which may discount such securities payable in Ceylon and running for four months.

The Banks, as constituted by the proposed Act, will still be empowered to act as bankers for the Government of India; and though the Government will cease to have any direct pecuniary concern in the Banks, the interests of the public are so largely involved in their careful management, that it has been thought right to provide (*a*) that the capital of the Banks shall not be increased or diminished without the previous sanction of the Governor General in Council; (*b*) that the Governor General in Council in the case of each of the three Banks, the Local Government in the case of the Banks of Madras and Bombay, shall be entitled to require information touching the affairs of the Bank and the publication of statements of assets and liabilities; and (*c*) that the previous approval of the Government of India shall be required to validate bye-laws.

CALCUTTA,
The 7th December 1875.

W. MUIR.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 29, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th January 1876, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. I OF 1876.

THE CHUTIA NÁGPUR ENCUMBERED ESTATES' BILL, 1876.

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CHAPTER VI.—MISCELLANEOUS.

21. Power to make rules.
22. Power to appoint new Managers.
23. Managers to be public servants.
24. Bar of suits.
25. Petitions, &c., under Act exempt from Court fees.
26. Saving of jurisdiction of Courts in Chutia Nágpur in respect of certain suits.
27. Act not to affect powers conferred by Bengal Act II of 1869.

A Bill to relieve from Incumbrances certain Estates in Chutia Nágpur.

Preamble.

WHEREAS many holders of estates and tenures in Chutia Nágpur are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Chutia Nágpur Encumbered Estates' Act, 1876."

Interpretation-clause.

2. In this Act—

"Commissioner." "Commissioner" means the Commissioner of Chutia Nágpur.

"Estate." "Estate" includes—

all estates held direct from the Government;

all tenures and under-tenures, of whatever nature, existing in Chutia Nágpur.

CHAPTER II.—VESTING ORDER.

Power to vest management of property in an officer appointed by Commissioner.

3. Whenever any holder of an estate,

or (when such holder is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such holder if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or when any tenure or under-tenure belonging to such holder has been attached in execution of a decree of a civil Court, the Deputy Commissioner within whose jurisdiction such tenure or under-tenure is situate,

applies in writing to the Commissioner, stating that the holder of the said estate is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord, and requesting that the provisions of this Act be applied to his case,

the Commissioner may, with the previous consent of the Lieutenant-Governor of Bengal, by order published in the *Calcutta Gazette*, appoint an officer (hereinafter called the Manager), and vest in him the management of the whole or any portion of the immoveable property of or to which the holder of the said estate is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the holder of the said estate, or his heir, during the continuance of such management.

Effect of order.

4. On such publication the following consequences shall ensue:—

Bar of suits.

First, all proceedings which may then be pending in any civil Court in British India, in respect to the debts or liabilities with which the property so vested in the Manager is charged, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Freedom from arrest.

Secondly, so long as such management continues,

the holder of the said estate and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or to which he may become subject after the said publication, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord,

Moveable property not liable to attachment for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of power to alienate.

Thirdly, so long as such management continues,

(*a*) the holder of the said estate and his heir shall be incompetent to mortgage, charge, lease, or alienate their immoveable property so vested as aforesaid or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom, and

Immoveable property freed from attachment.

(*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord.

CHAPTER III.—DUTIES OF MANAGER.

Manager to receive rents and profits,

5. The Manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

and pay therefrom the Government demand,

First, the Government revenue, and all debts or liabilities for the time being due or incurred to Government, or (in the case of under-tenures) to the superior landlord, in respect of the said property:

an annual sum for maintenance of the holder of the estate and his heir,

Secondly, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the estate, his heir, and their families:

costs of repairs and improvements,

Thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner:

costs of management, and the debts and liabilities.

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the estate and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

CHAPTER IV.—SETTLEMENT OF DEBTS.

Notice to claimants against holder of estate.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish a notice in English, Urdu and Hindí, calling upon all persons having claims against the holder of the estate or the property vested in the Manager as aforesaid to notify the same in writing to such Manager within three months from the date of the publication.

Notice how published.

Such notice shall be published by being posted at the kacháhrís in the district or districts in which the said property lies, and at such other places as the Manager thinks fit.

Claim to contain full particulars.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt or liability not duly notified to be barred.

8. Every debt or liability other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord, to which the holder of the estate is subject, or with which the property vested in the Manager is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of such debts and liabilities due to the several creditors of the holder of the estate and persons holding mortgages, charges or liens on the said property or any part thereof, as he may think proper to insert in the schedule to be submitted under section eleven.

Manager may fix sum which he thinks each creditor ought to receive.

In determining such amount the Manager shall have power to fix the sum which, on the consideration of all the circumstances, he may consider each creditor ought in fairness and justice to receive. And in fixing such sum, he shall not be bound by any previous agreement or judicial proceeding.

Appeal to Deputy Commissioner.

10. An appeal against any refusal, admission or determination under section seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Deputy Commissioner within whose jurisdiction the property is situate, and the decision of the Manager, if no such appeal has been so preferred, shall be final.

To Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of such decision, to the Commissioner, and the decision of such Commissioner, or of the Deputy Commissioner if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of the debts and liabilities mentioned in section nine has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the Commissioner may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of owner to his property.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Commissioner thinks that the provisions of this Act should not continue to apply to the case of the holder of the estate or his heir,

the holder of the estate or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section twenty, but subject to the

leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the holder of the estate or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions, and attachments mentioned in section four (so far as they relate to debts and liabilities not settled by the Manager) shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied ;

Revival of barred proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

CHAPTER V.—POWERS OF MANAGER.

13. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to call for further particulars.

14. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure.

Power to summon witnesses and compel production of documents.

15. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Power to administer oaths.

16. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Statements of persons examined to be evidence.

17. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the holder of the estate would have had for such purpose if this Act had not been passed.

Manager to have powers of holder of estate.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour ; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to remove mortgagee in possession.

18. If such property or any part thereof be in the possession of any person claiming to hold under a perpetual or mukarrari lease, dated within the three years immediately preceding the publication of the order mentioned in section three, the Manager, with the sanction of the Deputy Commissioner and Commissioner, shall have power to inquire into the sufficiency of the consideration for which the lease was given, and if upon due inquiry such consideration shall appear to him insufficient, to order the person so in possession to pay such consideration for the said lease as may seem proper to such Manager.

Manager to have power to inquire into consideration given for leases.

In default of payment of the said sum the lease shall be cancelled.

19. Subject to the rules made under section twenty-one, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to lease.

20. The Manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the holder of the estate is subject, or with which his immoveable property so vested as aforesaid or any part thereof is charged,

Power to raise money by mortgage or sale.

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling with the previous consent of the holder of the estate and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipts.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

CHAPTER VI.—MISCELLANEOUS.

21. The Commissioner may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Power to make rules.

Such rules, when approved by the Lieutenant-Governor of Bengal and published in the *Calcutta Gazette*, shall have the force of law.

22. Whenever the Commissioner thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act ; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Power to appoint new Managers.

Every such new Manager shall have the same powers as if he had been originally appointed.

23. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers to be public servants.

24. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Bar of suits.

25. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

Petitions, &c., under Act exempt from Court fees.

26. Nothing in this Act precludes the Courts in Chutia Nágpur having jurisdiction in suits relating to the succession to, or rights of, persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits ; but to all such suits the Manager of such property shall be made a party.

Saving of jurisdiction of Courts in Chutia Nágpur in respect of certain suits.

27. Nothing in this Act shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to ascertain, regulate and record certain tenures in Chutia Nágpur, on any person appointed to be a Special Commissioner thereunder, or on the Commissioner of the division of Chutia Nágpur.

Act not to affect powers conferred by Bengal Act II of 1869.

STATEMENT OF OBJECTS AND REASONS.

The accumulation of debts and the sale of large ancestral estates, in satisfaction thereof, is a process calculated to cause trouble in most parts of India. This is notably the case in the districts on the Western frontier of Bengal, which are comprised in the Chutia Nágpur Province. In those districts there are many landed proprietors of a rank equal to that of Chiefs, who are yet improvident and apt to run into debt to an extent which exposes their estates to danger of being brought to sale. If such sale takes place, troubles arise between the purchaser and the villagers, and the rights of the cultivators are likely to be imperilled.

Previously to 1859, when the Civil Procedure Code was introduced, the Commissioner and his subordinates exercised powers similar to those which have been subsequently conferred on the authorities in Oudh by Act No. XXIV of 1870, that is to say, when an estate became so encumbered as to be in danger of being brought to sale, the local authorities took up all the debts, stopped all action by the Courts of justice in regard thereto, prevented the Chief from contracting any fresh debts, arranged to discharge the ascertained amount of just debts, and for this purpose managed the estate, allowing the proprietor a fair maintenance until all obligations were cleared off. These proceedings did in those days provide an effectual remedy. But since 1859, it has been found legally difficult or impossible to continue them. The local authorities indeed have interfered in an indirect way, and so practically averted mischief. But any effective action in this direction would be really beyond their powers. Inasmuch as the evil of indebtedness still exists, and it is desirable that our officers should have a clearly lawful warrant for what they may have to do, it seems desirable to have authority by law for a procedure similar to that which prevailed before 1859.

For this purpose the present Bill has been framed on the model of Act No. XXIV of 1870 *(for the relief of encumbered estates in Oudh)*.

CALCUTTA,
The 29th December 1875.

RICHARD TEMPLE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 5, 1876: { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th January 1876, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. I OF 1876.

THE CHUTIA NAGPUR ENCUMBERED ESTATES' BILL, 1876.

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A Bill to relieve from Incumbrances certain Estates in Chutia Nágpur.

Preamble.

WHEREAS many holders of estates and tenures in Chutia Nágpur are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Chutia Nágpur Encumbered Estates' Act, 1876."

Interpretation-clause.

2. In this Act—

"Commissioner."

"Commissioner" means the Commissioner of Chutia Nágpur.

"Estate."

"Estate" includes—

all estates held direct from the Government;

all tenures and under-tenures, of whatever nature, existing in Chutia Nágpur.

CHAPTER II.—VESTING ORDER.

Power to vest management of property in an officer appointed by Commissioner.

3. Whenever any holder of an estate,

or (when such holder is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such holder if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or when any tenure or under-tenure belonging to such holder has been attached in execution of a decree of a civil Court, the Deputy Commissioner within whose jurisdiction such tenure or under-tenure is situate,

applies in writing to the Commissioner, stating that the holder of the said estate is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord, and requesting that the provisions of this Act be applied to his case,

the Commissioner may, with the previous consent of the Lieutenant-Governor of Bengal, by order published in the *Calcutta Gazette*, appoint an officer (hereinafter called the Manager), and vest in him the management of the whole or any portion of the immoveable property of or to which the holder of the said estate is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the holder of the said estate, or his heir, during the continuance of such management.

Effect of order.

4. On such publication the following consequences shall ensue:—

Bar of suits.

First, all proceedings which may then be pending in any civil Court in British India, in respect to the debts or liabilities with which the property so vested in the Manager is charged, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Freedom from arrest.

Secondly, so long as such management continues,

the holder of the said estate and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or to which he may become subject after the said publication, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord,

Moveable property not liable to attachment for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of power to alienate.

Thirdly, so long as such management continues,

(*a*) the holder of the said estate and his heir shall be incompetent to mortgage, charge, lease, or alienate their immoveable property so vested as aforesaid or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom, and

Immoveable property freed from attachment.

(*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord.

CHAPTER III.—DUTIES OF MANAGER.

Manager to receive rents and profits.

5. The Manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

and pay therefrom the Government demand,

First, the Government revenue, and all debts or liabilities for the time being due or incurred to Government, or (in the case of under-tenures) to the superior landlord, in respect of the said property:

an annual sum for maintenance of the holder of the estate and his heir,

Secondly, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the estate, his heir, and their families:

costs of repairs and improvements,

Thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner:

costs of management, and the debts and liabilities.

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the estate and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

CHAPTER IV.—SETTLEMENT OF DEBTS.

Notice to claimants against holder of estate.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish a notice in English, Urdu and Hindí, calling upon all persons having claims against the holder of the estate or the property vested in the Manager as aforesaid to notify the same in writing to such Manager within three months from the date of the publication.

Notice how published.

Such notice shall be published by being posted at the kachárís in the district or districts in which the said property lies, and at such other places as the Manager thinks fit.

Claim to contain full particulars.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt or liability not duly notified to be barred.

8. Every debt or liability other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord, to which the holder of the estate is subject, or with which the property vested in the Manager is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of such debts and liabilities due to the several creditors of the holder of the estate and persons holding mortgages, charges or liens on the said property or any part thereof, as he may think proper to insert in the schedule to be submitted under section eleven.

Manager may fix sum which he thinks each creditor ought to receive.

In determining such amount the Manager shall have power to fix the sum which, on the consideration of all the circumstances, he may consider each creditor ought in fairness and justice to receive. And in fixing such sum, he shall not be bound by any previous agreement or judicial proceeding.

Appeal to Deputy Commissioner.

10. An appeal against any refusal, admission or determination under section seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Deputy Commissioner within whose jurisdiction the property is situate, and the decision of the Manager, if no such appeal has been so preferred, shall be final.

To Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of such decision, to the Commissioner, and the decision of such Commissioner, or of the Deputy Commissioner if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of the debts and liabilities mentioned in section nine has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the Commissioner may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of owner to his property.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Commissioner thinks that the provisions of this Act should not continue to apply to the case of the holder of the estate or his heir,

the holder of the estate or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section twenty, but subject to the

leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the holder of the estate or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions, and attachments mentioned in section four (so far as they relate to debts and liabilities not settled by the Manager) shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied ;

Revival of barred proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

CHAPTER V.—POWERS OF MANAGER.

13. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to call for further particulars.

14. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure.

Power to summon witnesses and compel production of documents.

15. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Power to administer oaths.

16. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Statements of persons examined to be evidence.

17. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the holder of the estate would have had for such purpose if this Act had not been passed.

Manager to have powers of holder of estate.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour ; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to remove mortgagee in possession.

18. If such property or any part thereof be in the possession of any person claiming to hold under a perpetual or mukarrari lease, dated within the three years immediately preceding the publication of the order mentioned in section three, the Manager, with the sanction of the Deputy Commissioner and Commissioner, shall have power to inquire into the sufficiency of the consideration for which the lease was given, and if upon due inquiry such consideration shall appear to him insufficient, to order the person so in possession to pay such consideration for the said lease as may seem proper to such Manager.

Manager to have power to inquire into consideration given for leases.

In default of payment of the said sum the lease shall be cancelled.

19. Subject to the rules made under section twenty-one, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to lease.

20. The Manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the holder of the estate is subject, or with which his immoveable property so vested as aforesaid or any part thereof is charged,

Power to raise money by mortgage or sale.

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling with the previous consent of the holder of the estate and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipts.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

CHAPTER VI.—MISCELLANEOUS.

21. The Commissioner may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Power to make rules.

Such rules, when approved by the Lieutenant-Governor of Bengal and published in the *Calcutta Gazette*, shall have the force of law.

22. Whenever the Commissioner thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act ; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Power to appoint new Managers.

Every such new Manager shall have the same powers as if he had been originally appointed.

23. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers to be public servants.

24. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bond fide* pursuant to this Act.

Bar of suits.

25. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

Petitions, &c., under Act exempt from Court fees.

26. Nothing in this Act precludes the Courts in Chutia Nágpur having jurisdiction in suits relating to the succession to, or rights of, persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits ; but to all such suits the Manager of such property shall be made a party.

Saving of jurisdiction of Courts in Chutia Nágpur in respect of certain suits.

27. Nothing in this Act shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to ascertain, regulate and record certain tenures in Chutia Nágpur, on any person appointed to be a Special Commissioner thereunder, or on the Commissioner of the division of Chutia Nágpur.

Act not to affect powers conferred by Bengal Act II of 1869.

STATEMENT OF OBJECTS AND REASONS.

The accumulation of debts and the sale of large ancestral estates, in satisfaction thereof, is a process calculated to cause trouble in most parts of India. This is notably the case in the districts on the Western frontier of Bengal, which are comprised in the Chutia Nágpur Province. In those districts there are many landed proprietors of a rank equal to that of Chiefs, who are yet improvident and apt to run into debt to an extent which exposes their estates to danger of being brought to sale. If such sale takes place, troubles arise between the purchaser and the villagers, and the rights of the cultivators are likely to be imperilled.

Previously to 1859, when the Civil Procedure Code was introduced, the Commissioner and his subordinates exercised powers similar to those which have been subsequently conferred on the authorities in Oudh by Act No. XXIV of 1870, that is to say, when an estate became so encumbered as to be in danger of being brought to sale, the local authorities took up all the debts, stopped all action by the Courts of justice in regard thereto, prevented the Chief from contracting any fresh debts, arranged to discharge the ascertained amount of just debts, and for this purpose managed the estate, allowing the proprietor a fair maintenance until all obligations were cleared off. These proceedings did in those days provide an effectual remedy. But since 1859, it has been found legally difficult or impossible to continue them. The local authorities indeed have interfered in an indirect way, and so practically averted mischief. But any effective action in this direction would be really beyond their powers. Inasmuch as the evil of indebtedness still exists, and it is desirable that our officers should have a clearly lawful warrant for what they may have to do, it seems desirable to have authority by law for a procedure similar to that which prevailed before 1859.

For this purpose the present Bill has been framed on the model of Act No. XXIV of 1870 *(for the relief of encumbered estates in Oudh)*.

CALCUTTA,
The 29th December 1875.

RICHARD TEMPLE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 12, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th January 1876, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. I OF 1876.

THE CHUTIA NÁGPUR ENCUMBERED ESTATES' BILL, 1876.

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   Immoveable property freed from attachment.

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21. Power to make rules.
22. Power to appoint new Managers.
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24. Bar of suits.
25. Petitions, &c., under Act exempt from Court fees.
26. Saving of jurisdiction of Courts in Chutia Nágpur in respect of certain suits.
27. Act not to affect powers conferred by Bengal Act II of 1869.

A Bill to relieve from Incumbrances certain Estates in Chutia Nágpur.

Preamble.

WHEREAS many holders of estates and tenures in Chutia Nágpur are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Chutia Nágpur Encumbered Estates' Act, 1876."

Interpretation-clause.

2. In this Act—

"Commissioner." "Commissioner" means the Commissioner of Chutia Nágpur.

"Estate." "Estate" includes—

all estates held direct from the Government;

all tenures and under-tenures, of whatever nature, existing in Chutia Nágpur.

CHAPTER II.—VESTING ORDER.

Power to vest management of property in an officer appointed by Commissioner.

3. Whenever any holder of an estate,

or (when such holder is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such holder if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or when any tenure or under-tenure belonging to such holder has been attached in execution of a decree of a civil Court, the Deputy Commissioner within whose jurisdiction such tenure or under-tenure is situate,

applies in writing to the Commissioner, stating that the holder of the said estate is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord, and requesting that the provisions of this Act be applied to his case,

the Commissioner may, with the previous consent of the Lieutenant-Governor of Bengal, by order published in the *Calcutta Gazette*, appoint an officer (hereinafter called the Manager), and vest in him the management of the whole or any portion of the immoveable property of or to which the holder of the said estate is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the holder of the said estate, or his heir, during the continuance of such management.

Effect of order.

4. On such publication the following consequences shall ensue:—

Bar of suits.

First, all proceedings which may then be pending in any civil Court in British India, in respect to the debts or liabilities with which the property so vested in the Manager is charged, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Freedom from arrest.

Secondly, so long as such management continues,

the holder of the said estate and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or to which he may become subject after the said publication, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord,

Moveable property not liable to attachment for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of power to alienate.

Thirdly, so long as such management continues,

(*a*) the holder of the said estate and his heir shall be incompetent to mortgage, charge, lease, or alienate their immoveable property so vested as aforesaid or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom, and

Immoveable property freed from attachment.

(*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord.

CHAPTER III.—DUTIES OF MANAGER.

Manager to receive rents and profits,

5. The Manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

and pay therefrom the Government demand,

First, the Government revenue, and all debts or liabilities for the time being due or incurred to Government, or (in the case of under-tenures) to the superior landlord, in respect of the said property:

an annual sum for maintenance of the holder of the estate and his heir,

Secondly, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the estate, his heir, and their families:

costs of repairs and improvements,

Thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Commissioner:

costs of management, and the debts and liabilities.

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the estate and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

CHAPTER IV.—SETTLEMENT OF DEBTS.

Notice to claimants against holder of estate.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish a notice in English, Urdu and Hindí, calling upon all persons having claims against the holder of the estate or the property vested in the Manager as aforesaid to notify the same in writing to such Manager within three months from the date of the publication.

Notice how published.

Such notice shall be published by being posted at the kachárhrís in the district or districts in which the said property lies, and at such other places as the Manager thinks fit.

Claim to contain full particulars.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt or liability not duly notified to be barred.

8. Every debt or liability other than debts due, or liabilities incurred, to Government, or (in the case of under-tenures) to the superior landlord, to which the holder of the estate is subject, or with which the property vested in the Manager is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of such debts and liabilities due to the several creditors of the holder of the estate and persons holding mortgages, charges or liens on the said property or any part thereof, as he may think proper to insert in the schedule to be submitted under section eleven.

Manager may fix sum which he thinks each creditor ought to receive.

In determining such amount the Manager shall have power to fix the sum which, on the consideration of all the circumstances, he may consider each creditor ought in fairness and justice to receive. And in fixing such sum, he shall not be bound by any previous agreement or judicial proceeding.

Appeal to Deputy Commissioner.

10. An appeal against any refusal, admission or determination under section seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Deputy Commissioner within whose jurisdiction the property is situate, and the decision of the Manager, if no such appeal has been so preferred, shall be final.

To Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of such decision, to the Commissioner, and the decision of such Commissioner, or of the Deputy Commissioner if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

11. When the total amount of the debts and liabilities mentioned in section nine has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the Commissioner may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of owner to his property.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Commissioner thinks that the provisions of this Act should not continue to apply to the case of the holder of the estate or his heir,

the holder of the estate or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section twenty, but subject to the

leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Revival of barred proceedings and debts.

Where the holder of the estate or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions, and attachments mentioned in section four (so far as they relate to debts and liabilities not settled by the Manager) shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied;

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

CHAPTER V.—POWERS OF MANAGER.

Power to call for further particulars.

13. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses and compel production of documents.

14. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure.

Power to administer oaths.

15. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Investigation to be deemed a judicial proceeding.

16. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Statements of persons examined to be evidence.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of holder of estate.

17. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the holder of the estate would have had for such purpose if this Act had not been passed.

Power to remove mortgagee in possession.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Manager to have power to inquire into consideration given for leases.

18. If such property or any part thereof be in the possession of any person claiming to hold under a perpetual or mukarrari lease, dated within the three years immediately preceding the publication of the order mentioned in section three, the Manager, with the sanction of the Deputy Commissioner and Commissioner, shall have power to inquire into the sufficiency of the consideration for which the lease was given, and if upon due inquiry such consideration shall appear to him insufficient, to order the person so in possession to pay such consideration for the said lease as may seem proper to such Manager.

In default of payment of the said sum the lease shall be cancelled.

Power to lease.

19. Subject to the rules made under section twenty-one, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to raise money by mortgage or sale.

20. The Manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the holder of the estate is subject, or with which his immoveable property so vested as aforesaid or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling with the previous consent of the holder of the estate and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

CHAPTER VI.—MISCELLANEOUS.

Power to make rules.

21. The Commissioner may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when approved by the Lieutenant-Governor of Bengal and published in the *Calcutta Gazette*, shall have the force of law.

Power to appoint new Managers.

22. Whenever the Commissioner thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

23. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Bar of suits.

24. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Petitions, &c., under Act exempt from Court fees.

25. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

Saving of jurisdiction of Courts in Chutia Nágpur in respect of certain suits.

26. Nothing in this Act precludes the Courts in Chutia Nágpur having jurisdiction in suits relating to the succession to, or rights of, persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

Act not to affect powers conferred by Bengal Act II of 1869.

27. Nothing in this Act shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled an Act to ascertain, regulate and record certain tenures in Chutia Nágpur, on any person appointed to be a Special Commissioner thereunder, or on the Commissioner of the division of Chutia Nágpur.

STATEMENT OF OBJECTS AND REASONS.

The accumulation of debts and the sale of large ancestral estates, in satisfaction thereof, is a process calculated to cause trouble in most parts of India. This is notably the case in the districts on the Western frontier of Bengal, which are comprised in the Chutia Nágpur Province. In those districts there are many landed proprietors of a rank equal to that of Chiefs, who are yet improvident and apt to run into debt to an extent which exposes their estates to danger of being brought to sale. If such sale takes place, troubles arise between the purchaser and the villagers, and the rights of the cultivators are likely to be imperilled.

Previously to 1859, when the Civil Procedure Code was introduced, the Commissioner and his subordinates exercised powers similar to those which have been subsequently conferred on the authorities in Oudh by Act No. XXIV of 1870, that is to say, when an estate became so encumbered as to be in danger of being brought to sale, the local authorities took up all the debts, stopped all action by the Courts of justice in regard thereto, prevented the Chief from contracting any fresh debts, arranged to discharge the ascertained amount of just debts, and for this purpose managed the estate, allowing the proprietor a fair maintenance until all obligations were cleared off. These proceedings did in those days provide an effectual remedy. But since 1859, it has been found legally difficult or impossible to continue them. The local authorities indeed have interfered in an indirect way, and so practically averted mischief. But any effective action in this direction would be really beyond their powers. Inasmuch as the evil of indebtedness still exists, and it is desirable that our officers should have a clearly lawful warrant for what they may have to do, it seems desirable to have authority by law for a procedure similar to that which prevailed before 1859.

For this purpose the present Bill has been framed on the model of Act No. XXIV of 1870 *(for the relief of encumbered estates in Oudh)*.

CALCUTTA,
The 29th December 1875.

RICHARD TEMPLE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 19, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February 1876, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. 2 OF 1876.

A Bill to enable the Government of India to declare certain coins of Native States to be a legal tender in British India.

WHEREAS it is expedient to enable the Governor General in Council to declare that a tender of payment of money, if made in certain coins made for or issued by Native States, shall be a legal tender in British India; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Native Coinage Act, 1876": Short title.
It extends to the whole of British India; Local extent.
And it shall come into force at once. Commencement.

2. In this Act "Native State" means any Prince or State in India in alliance with Her Majesty. Interpretation-clause.

3. Subject to the provisions of section four, the Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made for or issued by any Native State, shall be a legal tender in British India; Power to declare that the coins of a Native State shall be legal tender.

and the provisions of the Indian Coinage Act, 1870, shall apply to the coins to which such notification refers, so far as such provisions are applicable thereto, and save as expressly provided by such notification.

4. The power conferred by the first clause of section three shall be exercisable only when the coins referred to in such notification comply with the following conditions (that is to say)— When such power may be exercised.

in the case of coins of gold, silver or bronze,

(*a*) their fineness is identical with that for the time being prescribed by law for coins of the Government of India of the same metal;

in the case of coins whether of gold, silver, bronze or copper,

(*b*) they are identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any Mint of the Government of India, or bear such relation thereto as is approved by the Governor General in Council;

(*c*) the devices upon their obverse and reverse differ from the devices on coins now made or issued by any such Native State, and have been approved by the Governor General in Council;

(*d*) upon each of such coins its value in money of the Government of India is inscribed in the English language;

(*e*) the Native State for which they are coined has undertaken to abstain during a term of not less than thirty years, from coining in its own mint gold, silver, bronze or copper, as the case may be, and has also undertaken that no coins resembling coins for the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction;

(*f*) such State has formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall be a legal tender in the territories subject to such State;

(*g*) such State has also agreed that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for or issued by such State under this Act, and that it will defray the cost of cutting and breaking them ; and

(*h*) such State has also agreed not to issue the same coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation.

Native States authorised to send metal to British Indian mint for coinage.

5. It shall be lawful for any such State to send to any mint in British India metal to be made into coin under this Act ; and, subject to the Mint-rules for the time being in force, and to the provisions hereinafter contained, the Mint-master shall receive such metal and convert it into coin, provided that it be fit for coinage.

Nothing herein contained shall be deemed to entitle any such State to have coins made under this Act at any Mint of the Government of India of any metal which is not for the time being legally coined at such Mint.

Power to impose a charge for coinage.

6. The Governor General in Council may impose on the coinage of any metal under this Act a charge sufficient to defray the expenses of coinage over and above the expenses of assay and refining ; and the Mint-master shall coin such metal at the charge so imposed.

Power to limit number of coins to be made under this Act for any Native State.

7. The Governor General in Council may from time to time, with reference to the reasonable requirements of the population of any Native State, fix the maximum number of any particular coins that shall be coined under this Act.

STATEMENT OF OBJECTS AND REASONS.

The establishment of a uniform coinage throughout the Indian Peninsula has long been recognized as politically and socially expedient, and the present Bill is intended to be a first step in this direction. It proposes to enable the Governor General in Council to declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made for or issued by any Native State shall (subject to the provisions of the Indian Coinage Act, 1870) be a legal tender in British India.

2. The power is limited by the following restrictions:—

(*a*). The fineness of the coins of the Native State in question must be identical with the fineness legally prescribed for the coins of the Government of India of the same metal :

(*b*). They must be identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any of its Mints, or bear such relation thereto as is approved by that Government :

(*c*). The devices upon their obverse and reverse must differ from the devices on coins now made and issued by any Native State, and have been approved by the Government of India :

(*d*). Upon each of such coins its value in money of the Government of India must be inscribed in English :

(*e*). The Native State for which they are coined must have undertaken (1) to abstain during a term of not less than 30 years from coining in its own mint, gold, silver, bronze, or copper, as the case may be, and (2) that no coins resembling coins which are for the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction :

(*f*). Such State must have formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall be a legal tender in the territories subject to the same State :

(*g*). Such State must have also agreed that the rules for the time being in force respecting the cutting and breaking of worn or counterfeit or called-in coin of the Government of India shall apply to the coins made or issued by such State, and that it will defray the cost of cutting and breaking them :

(*h*). Such State must also have agreed not to issue the same coins below their nominal value, and not to allow any advantage to any person in order to bring them into circulation.

3. In the case of gold coins the power to be conferred by the proposed Act will not of course be exercised unless a tender of payment in gold coined under Act XXIII of 1870 has been made a legal tender in British India.

4. The Bill authorises the Native States to send proper metal to any British Indian mint to be coined under the proposed Act, and enables the Government of India to impose a reasonable charge for coining it. But no such State will be entitled to have coins made at any mint of the Government of India of any metal not for the time being legally coined at such mint.

5. Lastly, the Governor General in Council is empowered to limit the number of any particular coin to be made under the proposed Act for any Native State.

6. The Act will not be brought into force with regard to the coins of any Native State which has not now a mint in active operation, unless the right of such State to re-open a mint is specially recognized by the Government of India.

Calcutta, 27th January 1876.

W. MUIR.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February 1876 :—

Telegram from Government of Bombay, dated 22nd February 1875.
From Government of Bengal, No. Z, dated 1st March 1875.
From Magistrate of Police, Madras, dated 19th February 1875.
Remarks by Major Weldon, Chief Magistrate of Egmore, Madras, dated 24th December 1875.
From Government of Madras, No. 101, dated 19th January 1876, and enclosures.
Further remarks by Major Weldon, Chief Magistrate of Egmore, Madras, dated 26th January 1876.

We, the undersigned Members of the Select Committee to which the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. In compliance with suggestions received from several quarters, we have placed in the body of the Bill the sections which, as it was last settled, were only referred to in the first schedule.

3. We have added a few sections from the Police Acts now in force in the Presidency towns. And we have incorporated the substance of Act LII of 1860, and made similar provisions as to offences against the Acts relating respectively to Telegraphs, the Post Office and Arms and Ammunition.

4. We have provided for the record of the important particulars in each case and for the record of evidence in all cases in which such record is expedient.

5. The circumstances of the Presidency towns are such that it is unnecessary to require that the punishment of whipping is to be inflicted in the presence of a medical officer.

6. The subject of local nuisances is sufficiently provided for by the several Municipal Acts. We have therefore dispensed with the chapter relating to that subject.

7. We find that the Court of Petty Sessions at Bombay has fallen almost entirely into disuse. The powers conferred on it by Bombay Act IV of 1866, have never been availed of ; and in the year 1874 the only work done was 12 opium cases and 13 municipal appeals. Under these circumstances, and considering that no such Courts exist at Calcutta and Madras, we have provided for the abolition of the Court, reserving, however, the hearing of municipal appeals to the Senior Magistrate, who is already the "Revenue Judge" at the Presidency.

8. We have made considerable additions to the schedule of repeals.

9. We recommend that the Bill as now amended be republished in the *Gazette of India*, and that no further steps be taken in the matter until after the lapse of one month.

The 11th February 1876.

T. C. HOPE.
A. HOBHOUSE.
E. C. BAYLEY.

No. III.

THE PRESIDENCY MAGISTRATES' BILL, 1876.

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A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Preamble.

WHEREAS it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns and to increase the jurisdiction of such Courts; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Magistrates' Act, 1876":

Local extent.

It extends to all places within the local limits of the ordinary original criminal jurisdiction of the High Courts of Judicature at Fort William, Madras and

Bombay, and within the limits of the ports of the said towns and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues;

Commencement. And it shall come into force at once.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

Repeal of enactments.

3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law.

Saving of powers under local laws.

4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule.

Matters indicated in second schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any other law referred to in section twelve;

whether a warrant or a summons shall ordinarily issue in the first instance, and;

whether the offence is bailable or not,

are indicated respectively by the third, fourth and fifth columns of the same schedule.

5. Cases pending in any of the Courts of Police Magistrates within the said limits when this Act comes into force shall be decided, as far as may be, according to the procedure provided in this Act.

Pending cases.

6. In this Act the following words and expressions have the following meanings, unless a different intention appears from the context:—

Definitions.

"Special law." "Special law" means a law applicable to a particular subject:

"Local law." "Local law" means a law applicable to a particular part of British India:

"Investigation" includes all the proceedings by the Police, authorized by this Act, for the collection of evidence:

"Inquiry." "Inquiry" includes any inquiry which may be conducted by a Magistrate under this Act:

"Inquired into." "Inquired into" means and includes every proceeding preliminary to trial:

"Trial." "Trial" means the proceedings taken in Court from the time when the accused appears in Court, and includes the punishment of the offender:

"Written." "Written" includes "printed," "lithographed," "photographed" and "engraved":

'Magistrate.' "Magistrate" includes a Presidency Magistrate:

"Presidency-town." "Presidency-town" includes all places within the limits mentioned in section one:

"District." "District" shall be deemed to have the meaning attached to it in the Code of Criminal Procedure, and shall include a Presidency-town:

"High Court." "High Court" means the High Courts of Judicature at Fort William, Madras and Bombay:

"Cognizable offence or case." "Cognizable offence or case" means an offence for, or a case in, which a Police-officer may, by any law in force for the time being, arrest without warrant:

"Non-cognizable offence or case." "Non-cognizable offence or case" means an offence for, or a case in, which a Police-officer may not arrest without warrant:

"Bailable offence or case." "Bailable offence or case" means an offence for, or a case in, which bail may be taken under any law in force for the time being:

"Non-bailable offence or case." "Non-bailable offence or case" means an offence for, or a case in, which bail may not be taken under any law in force for the time being.

In every part of this Act, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

CHAPTER II.

CONSTITUTION AND POWERS OF THE MAGISTRATES' COURTS.

7. The Local Government may, with the sanction of the Governor General in Council, constitute within the said Presidency-towns respectively so many Divisions as the said Government thinks fit, and may define the extent thereof, and from time to time alter the number and extent of such divisions, and establish a Presidency Magistrate's Court for each of such divisions.

Establishment of Presidency Magistrates' Courts.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns, respectively, who may sit and act as such Magistrates in any of the said Courts, and may suspend or remove persons so appointed.

Appointment of Presidency Magistrates.

Every person so appointed shall, by virtue of his office, be a Justice of the Peace for the said towns, and shall exercise all powers and jurisdictions which, by virtue of any law for the time being in force, may be exercised by two Justices of the Peace.

Presidency Magistrates to be Justices of the Peace.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law now in force may be exercised by the Court of Petty Sessions.

9. In every Presidency-town the Local Government shall appoint one of the Presidency Magistrates to be Senior Magistrate, and such Magistrate shall exercise in such town all the powers which by any law, regulation or rule, are required to be exercised by any Senior or Chief Magistrate, and shall have authority

Appointment and powers of Senior Magistrate.

to make rules, not being inconsistent with the provisions of this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Notwithstanding anything in the last paragraph of section 7, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Senior Magistrate.

10. All existing Magistrates of Police shall be deemed Presidency Magistrates under this Act, and all references in any Act now in force to Magistrates of Police shall be deemed to be made to such Presidency Magistrates.

Saving of existing incumbents.

11. Presidency Magistrates may pass the following sentences on persons convicted before them of offences which the said Magistrates are competent to try:—

Sentences which Magistrates may pass.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law):

Fine to the extent of one thousand rupees:

Whipping.

A Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award.

12. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by the Courts appointed under this Act. But no such Court shall award any sentence in excess of its powers.

Offences under enactments not specifying Court authorized to try.

13. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Offence committed in Magistrate's presence.

14. A Magistrate may record any statement made to him by any person, or any confession made to him by any person accused of an offence by any Police-officer or other person. Such statements and confessions shall be recorded in the manner hereinafter prescribed for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried. No Magistrate shall record any such confession unless, upon enquiry, he has reason to believe that it was made voluntarily, and he shall make a memorandum at the foot of any such confession to the following effect:—

Powers of Magistrate to record statements and confessions.

"I believe that this confession was voluntarily made."

(Signed) A. B.,
Presidency Magistrate.

15. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, such Magistrate may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or such other person as aforesaid, as the case may be, and may compel compliance with such order, using force if necessary.

Magistrate may compel immediate restoration of such woman or child.

CHAPTER III.

THE PLACE OF INQUIRY AND TRIAL.

16. Every offence shall ordinarily be inquired into, and, if tried by a Magistrate, shall be tried in the district in which it was committed. If tried by a High Court, it shall (subject to the provisions of section 64 A of the Code of Criminal Procedure) be tried by that High Court to which the Magistrate commits.

Place for inquiry and trial of offence.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

17. When a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or omitted to be done, or any such consequence has ensued.

Accused triable in district where act done, or where consequence ensues.

Illustrations.

(*a.*) A is wounded in the district of X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in the district of X, and is, during twenty days, unable to follow his ordinary pursuits in the district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in the district of Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in district X or district Y.

18. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it happened, or in the district in which the offence with which it was so connected happened.

Place for trial where act is offence by reason of relation to other offence.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in any district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of the original concerted plan and with reference to the common object.

Place for inquiry or trial where scene of offence is uncertain;

19. When it is uncertain in which of several districts an offence was committed; or

or not in one district only;

where an offence is committed partly in one district and partly in another; or

or offence is continuing;

where the offence is a continuing one and continues to be committed in more districts than one; or

or consists of several acts.

where it consists of several acts done in different districts,

it may be inquired into and tried in any one of any of such districts.

Illustrations.

(*a.*) An offence committed on a journey or voyage may be inquired into and tried in any district through which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

(*b.*) An offence committed near the boundary between two districts may be inquired into and tried in either.

(*c.*) A charge of being a thug, or of having belonged to a gang of dákáits, may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*d.*) A charge of having escaped from custody may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*e.*) A charge of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried, either in the district in which the property which is the subject of the offence was received, or in the district or districts in which the whole or any part of it has been misappropriated, or where the offence of criminal breach of trust has been wholly or partly committed.

(*f.*) A steals a buffalo from B in district W, and personally, or by his agents, conveys the buffalo through districts X and Y into district Z. This is a continuing offence, and A may be tried either in W, X, Y or Z.

Murder as a thug, dacoity or dacoity with murder.

20. The offence of murder as a thug, dacoity or dacoity with murder may be inquired into and tried wherever the person accused may happen to be when arrested, or in any other district in which he might be tried under any other provision of this Code, or any other law relating to the trial of such offence.

High Court to decide, in case of doubt, district where inquiry shall take place.

21. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

22. No sentence or order of any criminal Court shall be liable to be set aside merely on the ground that the investigation, inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person was actually prejudiced in his defence, or the prosecutor in his prosecution, by such error, in either of which cases a new trial may be ordered.

CHAPTER IV.

OF THE DUTY OF THE PUBLIC.

All persons to give information of certain offences.

23. Every person aware of the commission of any offence made punishable under section 121, 121 A, 122, 123, 124, 124 A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Magistrate.

All persons to assist Magistrate and Police in certain cases.

24. Every person is bound to assist a Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest.

CHAPTER V.

OF COMPLAINTS TO A MAGISTRATE.

Processes.

25. Proceedings to compel the appearance before a Magistrate of persons accused or suspected of offences, who have not been arrested without warrant, may be by summons or by warrant.

When summons or warrant may be issued.

26. A summons or a warrant may be issued—

(*a.*) upon information or report by a Police-officer. Such information or report shall be regarded as a complaint:

(*b.*) upon a complaint by a private person. Any person acquainted with the facts of a case may make a complaint:

(*c.*) upon suspicion entertained by a Magistrate that an offence has been committed.

Who may entertain complaints.

27. A Magistrate may entertain a complaint of an offence, whether preferred directly by the complainant, or on report of a Police-officer, and may issue process, in the manner hereinafter prescribed, to compel the appearance of persons accused of such offences.

Effect of complaint or Police report.

A complaint or a Police report gives jurisdiction to a competent Magistrate to inquire into or try any offence covered by the facts complained of or reported, and also to try or commit for trial any person who, at the time when the complaint or report is made, or subsequently, appears to have committed the offence disclosed.

Who may act without complaint.

28. A Magistrate may, without any complaint, take cognizance of any offence which he suspects to have been committed, and may issue process in the manner hereinafter prescribed to compel the appearance before him of

persons whom he suspects to have committed any such offence.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Magistrate to take cognizance of a case without complaint, when the offence falls under chapters XIX, XX or XXI of the Indian Penal Code; nor to entertain a complaint, or to take cognizance without complaint, of an offence, without sanction, where such offence, by any law in force, may not be entertained without sanction.

Commitment to High Court.

30. A Magistrate may commit any person to the High Court for any offence triable by such Court.

Magistrate to examine complainant.

31. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made to a Magistrate, such Magistrate, if he is competent to receive such complaint, shall examine the complainant. Such examination may be on oath or affirmation or not, as the Magistrate in each case thinks fit; but

Effect of omission.

where the complaint has been made by petition, and the Magistrate neglects to examine the complainant,

the trial of the person accused shall not be set aside on this ground.

Provided that the Magistrate, if he thinks fit, may require an information in writing to be laid in every case in which it seems to him to be expedient before the matter of the complaint or charge is brought before him.

Dismissal of complaint.

32. The Magistrate before whom such complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

When summons may issue.

33. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate as may then be there, to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

Where warrant or summons may issue on complaint.

34. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months,

or any offence triable exclusively by the High Court, or which in the opinion of such Magistrate ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

Warrant to arrest, if summons not obeyed.

35. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

36. In cases, of whatever nature, in which the Magistrate thinks fit to issue a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf.

But it shall be in the discretion of such Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

CHAPTER VI.

OF THE SUMMONS.

Form of summons.

37. Every summons issued by a Magistrate to an accused person shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

Fees for summonses and warrants.

38. For every summons or warrant issued by a Magistrate there shall be paid a fee of eight annas, and for every summons to attend and produce documents there shall be paid a fee of four annas.

Power to remit fees.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the party complaining is unable to pay the same, or if the complaint is made by a public servant in the execution of his duty.

Summons how served.

39. The summons shall be served on the accused personally, in any district where he may be, by delivering or tendering the summons to him; or, in case the accused person cannot be found, the summons may be left for him with some adult male member or servant of his family residing with him, and the person summoned, or the person with whom the summons is left, shall, if required by the serving officer, sign a receipt therefor.

Service when accused cannot be found.

40. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving officer shall fix the summons on some conspicuous part of the house in which the accused person ordinarily resides.

41. A Magistrate may, notwithstanding the issue of such summons, either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Issue of warrant in addition to summons.

42. A Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence known or suspected to have been committed by such person in a different district, or on the high seas, or in a foreign country, and for which, if committed within such local limits, he might issue a summons or warrant.

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

43. When a summons is to be served at any place outside the Presidency town, the Magistrate may send the summons in duplicate to the local Magistrate of the place where the accused shall reside or be to be there served.

Service of summons at distant places.

44. When service of summons is effected at such distance as aforesaid, and also in cases where the person who shall have served the same shall not be present at the hearing of the complaint, the service may be proved by a solemn declaration, purporting to be made before a Magistrate, which declaration may be endorsed on the duplicate summons and returned to the Court whence the process issued, or by a copy of the summons countersigned by the person to whom it is addressed, or by a receipt under section 39.

Proof of service in such cases and when server not present.

45. The provisions relating to a summons, its issue and service, contained in sections 37 to 44 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER VII.

OF THE WARRANT.

46. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form of warrant.

A warrant issued under this Act remains in force until the person arrested is brought into the presence of the Magistrate who issued it or some other Magistrate sitting at one of the Police Courts of the town in which it was issued and so long as he remains before such Magistrate. If the person arrested is to be remanded to custody, an order must be made under section 68 or a warrant issued under section 104.

Force of warrant of arrest.

47. It shall be in the discretion of a Magistrate, in issuing a warrant for the arrest of any person, to direct by endorsement on the warrant that, if such person be willing and ready to give bail, in a sum to be fixed by the Magistrate, for his appearance before the Magistrate on a specified day (which sum and day shall be named in such endorsement) to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

Magistrate may direct bail to be taken.

If bail is given, the officer shall forward the bail-bond to the Magistrate.

Bail-bond to be forwarded.

48. A warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police-officer be immediately available, direct it to any other person.

Warrants to whom directed.

49. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

50. A warrant directed to a Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom the warrant is directed or endorsed.

Execution of warrant by Police-officer other than the one addressed.

51. The Magistrate by whom a warrant of arrest is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

Any Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he is competent to issue a warrant.

Arrest in presence of Magistrate.

52. A warrant issued by a Magistrate shall ordinarily be executed in the district in which it was issued.

Where warrant may be executed.

But if the person against whom the warrant is issued escapes, goes into, or is, in any place out of the district in which the warrant was issued, the warrant may be executed in such place.

53. A Magistrate may direct a warrant to be executed outside his local jurisdiction, either after endorsement by a Magistrate within whose local jurisdiction it is to be executed, or without such endorsement.

Execution of warrant outside issuing Magistrate's jurisdiction.

If the warrant is to be so endorsed, it may be sent by post to the Magistrate within whose local jurisdiction it is to be executed and by whom it is to be endorsed.

If the warrant is not to be endorsed, it shall be entrusted to a Police-officer, to be taken, either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, in whose local jurisdiction the warrant is to be executed.

54. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Magistrate

Procedure on execution of warrant outside issuer's jurisdiction.

who issued the warrant be within twenty miles or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 47, be carried before the Magistrate in whose local jurisdiction the arrest was made.

55. A Magistrate or Police-officer to whom a warrant is directed for execution shall execute the same, or cause it to be executed, and any Magistrate before whom a person is brought under the provisions of section 54 shall, if the person arrested appears to be the person intended by the Magistrate who issued the warrant, direct his removal in custody to the Magistrate who issued the warrant,

Procedure by Magistrate before whom person is brought on arrest under warrant from other jurisdiction.

or, if the offence be bailable, and the person arrested be ready and willing to give bail, shall take bail for his appearance before the Magistrate who issued the warrant, and the recognizance or bail-bond shall be forwarded to such Magistrate.

56. If any person accused of an offence not coming within section 33 absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate having jurisdiction shall, if he thinks, whether after taking evidence or not, that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

Proclamation for person absconding.

Such proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly made shall be conclusive evidence of due compliance with the law.

57. Such Magistrate may order the attachment of any property, moveable or immoveable, or both, belonging to the person so absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without the jurisdiction of such Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate having jurisdiction; or by the appointment of a manager and receiver; or by an order prohibiting the payment of rent to the absent person, as such Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner.

58. When any person whose property has come under the disposal of Government under section 57 appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Magistrate, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

Restoration of forfeited property.

59. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of section 42, in respect of an offence known or suspected to have been committed in another district or division of a district, the Magistrate who issued the warrant shall, unless he is authorized to complete the inquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or shall take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

CHAPTER VIII.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

60. A Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor, but no person shall be entitled to do so without permission. Any person permitted to prosecute may conduct the prosecution personally or by counsel.

Permission to conduct prosecution.

61. Every person accused before a Magistrate of an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the law in force for the time being relating to pleaders.

Right of accused to be defended.

Any such person may, with the permission of the Court (but not otherwise), employ any mukhtár or other person, not being a barrister, attorney or pleader, to assist him in his defence.

If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as to it seems fit.

Where accused person does not understand proceedings.

62. The place in which the Court of a Magistrate is held for the trial of any offence, or for the purpose of conducting an inquiry into any case triable by a High Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

Criminal Courts to be open.

But the Magistrate may, if he thinks fit, order that, during the inquiry into or trial of any particular case, no person shall have access to, or be, or remain in, the room or building used by the Court, without the consent or permission of the Court.

63. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Compounding offences.

CHAPTER IX.

OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

64. Cases triable by a High Court in the exercise of its ordinary original criminal jurisdiction shall be inquired into by a Magistrate, and in such inquiry he shall adopt the following procedure.

Procedure in preliminary inquiries.

65. When the accused person appears or is brought before the Magistrate, or, if his personal attendance is dispensed with, when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Examination of complainant and witnesses for prosecution.

Such evidence shall be taken in the manner described in clauses 2, 3 and 4 of section 75.

66. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent, when his personal attendance is dispensed with and he appears by agent.

Examination to be in presence of accused.

The accused person or his agent shall be permitted to examine and re-examine his own witnesses, and to cross-examine the complainant and his witnesses.

Accused may cross-examine.

67. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

Power of Magistrate to summon and examine any person.

68. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time adjourn the inquiry and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days.

Adjournment of inquiry and remand.

During the time that the accused person is so remanded, the Magistrate shall deal with him in accordance with the provisions of chapter XVII.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable ground for a remand.

69. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed accordingly.

When accused person to be discharged.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

70. When evidence has been given before a Magistrate, which appears to justify him in sending the accused person to take his trial for an offence which is triable exclusively by the High Court, or which, in the opinion of the Magistrate, is one which ought to be tried by such Court, the accused person shall be sent for trial by such Magistrate before the High Court.

When accused to be committed for trial.

71. When the Magistrate determines to send the accused person before the High Court for trial, he shall, after the evidence for the prosecution has been recorded, make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge.

Framing of charge on which accused is to be tried.

Such instrument, the record of the original enquiry, and any weapon or other article of property necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Charge, &c., to be forwarded to High Court.

72. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy thereof shall be furnished to him, if he so require.

Charge to be explained, and copy furnished, to accused.

73. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he wishes to be summoned to give evidence on his trial before the High Court.

List of witnesses for defence on trial.

The Magistrate may, if he thinks proper, summon the persons so named to attend and give evidence at the enquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time.

Further list.

CHAPTER X.

OF THE TRIAL OF CASES BY MAGISTRATES.

74. The following procedure shall be observed in the trial of cases by Magistrates under this Act.

Cases may be tried summarily.

In every such case the Magistrate shall enter in a register the following particulars:

(*a*) the serial number,

(*b*) the date of the commission of the offence,

(*c*) the name of the complainant,

(*d*) the name of the accused person,

(*e*) the offence complained of or proved,

(*f*) the prisoner's plea,

(*g*) the final order,

(*h*) the date of such order.

75. The Magistrate need not record the evidence of the witnesses in any case tried by him under this Act.

Record of evidence.

But if he think fit to record such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of a narrative, but the Magistrate may in his discretion take down or cause to be taken down any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

76. No formal charge need at any time be made against the accused person, and neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. The Magistrate may convict the accused person of any offence he is competent to try, and which, from the facts proved, the accused person appears to have committed, whatever may be the nature of the complaint or process. If a formal charge be made it shall be drawn up in accordance with the provisions contained in chapter XX.

Object and effect of complaint.

77. No defect in the complaint or process shall affect the validity of the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

78. If, upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant or otherwise, the Magistrate shall dea with him in accordance with chapter XVII.

Accused person may be admitted to bail, or allowed to be at large on his personal recognizance.

79. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Dismissal or adjournment on non-appearance of complainant.

80. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

81. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

82. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear, the Magistrate may dismiss the complaint.

83. In every case in which any person is given in charge to any Police-officer, or in which any information or complaint of any offence is laid or made before any Magistrate and is not further prosecuted, or in which, if further prosecuted, it appears to the Magistrate by whom the case is heard that there was no sufficient ground for making the charge, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate seems meet.

Compensation to person informed or complained against.

In such cases, if more persons than one are accused in the complaint, the Magistrate may, in like manner, award compensation not exceeding fifty rupees to each of them.

All compensation awarded under this section may be recovered as if it were a fine.

84. If a complainant, at any time before a final order is passed in any case, satisfies the Magistrate that there are sufficient grounds

Withdrawal of complaint.

for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it.

A complaint withdrawn under this section shall not again be entertained.

85. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him, and, in cases appealable under this Act, shall record a brief statement of the reasons for the conviction, together with the substance of the evidence on which the conviction was had, unless he has already recorded the evidence itself in the manner described in section 75.

Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of such accused person's agent, if he has been permitted to appear by agent; or the accused person may be required to attend to hear such sentence.

86. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or one which, in the opinion of such Magistrate, ought to be tried by the High Court, the Magistrate shall stop further proceedings under this chapter, and shall, either submit the case to the Magistrate having jurisdiction, or commit the accused person to the High Court in accordance with the provisions contained in chapter IX.

How the Magistrate is to proceed when, after commencement of trial, he finds the case beyond his jurisdiction.

87. In all cases not of a criminal nature, if no sufficient cause be shown for the non-appearance of the person against whom complaint has been made, the Magistrate upon proof of the service of the summons, may proceed to hear and determine the case in his absence, or may, if he think fit, issue his warrant for apprehending and bringing the said person before him or some other Magistrate.

Procedure in cases not of a criminal nature.

Provided that the prosecution in any such case shall be commenced within three months after the commission of the offence.

CHAPTER XI.

APPEALS.

88. The Local Government may direct an appeal by the Public Prosecutor or other officer specially or generally appointed in this behalf, from a Magistrate's order of acquittal, or of dismissal, or of leave to withdraw operating as an acquittal; but in no other case shall there be an appeal from a judgment or order.

No appeal in case of acquittal, except on behalf of Government.

Such appeal shall lie to the High Court. No appeal shall be presented under this section after six months from the date of the order complained of.

The High Court may, in any case so appealed, direct a new trial by another Court, or may pass such order as may be warranted by law.

89. Any person convicted on a trial held by a Magistrate, may appeal to the High Court if the sentence complained of involves imprisonment for a term exceeding one year or a fine exceeding five hundred rupees:

Appeal.

Provided that, where an accused person has been convicted on his own plea, no appeal shall lie except as to the extent or legality of the sentence.

For the purposes of the Indian Limitation Act, all appeals under this Act and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

90. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copy of judgment to accompany petition.

91. If any person affected by a sentence or other order passed by a Court under this Act desires to have a copy of any proceeding, he shall, on applying for such copy, be furnished therewith provided that he pay for the same, unless the Court, for some special reason, sees fit to furnish it free of cost.

Copies of proceedings.

92. If the party appealing be in jail, he shall be at liberty to present his petition of appeal, and the copy of the judgment or order appealed against, to the officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Procedure when appellant in jail.

93. The High Court shall fix a reasonable time within which the appellant or his counsel or authorized agent may appear, and it may reject the appeal if, on a perusal of the petition of appeal and the copy of the judgment or order appealed against, and after hearing the appellant or his Counsel or authorized agent, if he appears, it considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Rejection of appeal.

Before rejecting the appeal, the Court may call for and peruse all or any part of the proceedings of the Magistrate, but shall not be bound to do so.

In rejecting an appeal under this section, the High Court shall not enhance the sentence.

94. If the High Court decide to hear the appeal, it shall cause notice to be given to the appellant and shall also give notice to the Magistrate whose judgment or order has been appealed against, who shall inform, if necessary, the public prosecutor, Government pleader, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard,

Notice of appeal.

and in cases under section 88, where the High Court decides to hear the appeal, it shall also cause notice to be given to the respondent.

95. The High Court, after perusing the proceedings of the Magistrate, and after hearing the appellant, his counsel or agent, if they appear, and the public prosecutor, Government pleader or other officer empowered by Government or by the Magistrate in that behalf, if he appears, may alter or reverse the finding and sentence or order of such Court, and may, if it see reason to do so, enhance any punishment that has been awarded or order the appellant to be re-tried before any Magistrate or before the High Court.

High Court may alter or reverse finding and sentence, or enhance sentence.

Provided that the High Court shall not inflict a greater punishment than is prescribed for the offence by the Indian Penal Code.

96. In any case in which an appeal is allowed, the High Court may, pending the appeal, order that the sentence be suspended, and, if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

Suspension of sentence pending appeal. Release of appellant on bail.

The period during which the sentence is suspended shall be omitted in reckoning the completion of the punishment.

97. In any case in which an appeal has been allowed, the High Court, if it thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may either make such further inquiry and take such additional evidence itself, or may direct such inquiry to be made and additional evidence to be taken by a Magistrate.

High Court may make or direct further inquiry.

If the High Court takes further evidence and passes judgment and sentence, no fresh right of appeal arises in respect of such sentence.

When the evidence has not been taken before itself, the result of the further inquiry and the additional evidence shall be certified to the High Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the presence of the appellant may be dispensed with when the further inquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

98. No order passed by a Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings on or before trial, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the prisoner in his defence.

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

No irregularity in the proceedings up to trial is a sufficient ground for reversing any judgment, sentence or order made or passed in a trial properly held.

99. In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the High Court, is proved by the evidence, the High Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

High Court may reduce punishment.

100. When a Magistrate has convicted a person of an offence not triable by such Magistrate, the High Court shall annul the conviction and sentence of such Magistrate, and direct the trial of the case by a Court of competent jurisdiction.

Procedure in case of conviction by Court not having jurisdiction.

101. No appeal shall lie from any order of a Magistrate, except in the cases provided for by this Act or by any law for the time being in force.

Unless otherwise provided, no appeal to lie from order of Magistrate.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, or to grant an enhanced award.

(*b.*) There is no appeal against an order of a competent Magistrate dismissing a complaint.

(*c.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*d.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*e.*) There is no appeal against an order of maintenance.

(*f.*) There is no appeal against the order of a competent Court refusing to order a commitment.

(*g.*) There is no appeal against an interlocutory order, such as a claim to appear by agent.

102. When an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the party making such application shall give notice to the Magistrate, to whose decision such application relates, seven days at least before such application is made, and shall at the same time furnish such Magistrate with a copy of the grounds on which such application is to be made.

Notice to Magistrate concerned, of intention to make application under Act X of 1875, s. 147.

103. When the decision of any Magistrate is called in question in the High Court by any process issued on an *ex parte* application, the Magistrate may submit with the record a statement setting forth the grounds of his decision and any facts he may consider material to the issue; and this statement the Court shall consider before determining the matter so as to overrule or set aside the decision or acts of the Magistrate to which the application relates, and notwithstanding that no Counsel appear on behalf of the Magistrate.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

CHAPTER XII.

EXECUTION.

104. In cases tried by a Magistrate, the Court passing the sentence shall forward the accused person with a warrant for the execution of the sentence, to the officer in charge of the jail of the Presidency town in which the trial was held,

Court to send accused, with warrant for execution of sentence to officer in charge of jail.

or where there are more such jails than one, to such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, and the period during which he is to be imprisoned, and the nature of the imprisonment or other punishment:

Sentence of whipping.

105. Where the accused person is sentenced to whipping, the sentence may be executed at such place and time as the Court may direct.

Form and direction of warrant of commitment.

106. Every warrant for the commitment of a person to custody shall be in writing, and signed and sealed by the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (C or D, as the case may be) given in the third schedule to this Act or to the like effect.

Levy of fine.

107. Whenever an offender is sentenced to pay a fine, the Magistrate may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Magistrate, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Section to what cases applicable.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Detention of offender until return made to distress-warrant.

When a warrant of distress is issued, the Magistrate may order the offender to be detained in custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance; but if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress.

Distress not illegal nor distrainer a trespasser for defect of form in proceedings.

No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto; nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Who may issue warrant.

The warrant may be issued either by the Magistrate who passes the sentence or by his successor in office.

Payment of fine in compensation.

108. Whenever a Magistrate imposes a fine under any law in force for the time being, the Magistrate may order the whole or any part of the fine to be paid in compensation,

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the offence complained of, where such offence can, in the opinion of the Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded in a case which is subject to appeal, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

Imprisonment in default of payment of fine.

109. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by Magistrate.

Provided that, in no case decided by a Magistrate, where imprisonment has been awarded as part of the substantive sentence, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Magistrate may award such term of imprisonment in default of payment of fine as is allowed by law, provided the amount does not exceed the Magistrate's powers under this Act.

Whipping, if awarded in addition to imprisonment, when to be inflicted.

110. When the punishment of whipping is awarded, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Mode of inflicting punishment.

111. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of the officer in charge of the jail.

Punishment not to be inflicted if offender not in fit state of health.

112. No sentence of whipping shall be carried into execution unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo the punishment.

Stay of execution.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

Not to be executed by instalments.

No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under section 112.

113. In any case in which, under section 112, a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either order the discharge of such offender, or sentence him, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not carried out, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to award.

Sentence in cases of simultaneous conviction of several offences.

114. When a person is convicted, at one trial, of two or more offences punishable under the same or different sections of any law for the time being in force, the Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other.

It shall not be necessary for the Magistrate, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before the High Court:

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

Trial of previously convicted persons.

115. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate considers him an habitual offender, be committed to the High Court.

Currency of sentence on escaped convicts.

116. When sentence is passed on an escaped convict, for such escape or for any other offence, the Magistrate may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period, equal to that which remained unexpired of his former sentence at the time of his escape.

Commencement of sentence on offender already sentenced for other offence.

117. When sentence is passed on a person already under sentence of imprisonment or transportation, and the sentence is for imprisonment, the Magistrate shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced:

Proviso.

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

Evidence of medical witness.

118. The examination of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any criminal trial, although the person examined is not called as a witness.

Court may summon medical witness.

The Court may summon such civil surgeon or other medical witness, if it sees sufficient cause for doing so.

Report of chemical examiner.

119. Any document purporting to be a report from the chemical examiner, or assistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Genuineness of signature may be presumed.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Previous conviction or acquittal how proved.

120. Where a previous conviction or acquittal is to be proved against an accused person, application shall be made to the officer in whose custody the records of such trial may be.

It shall not be necessary to produce the record of the conviction or acquittal of such accused person, or a copy thereof, but an extract may be produced

in proof of such conviction or acquittal, if certified, under the hand of the clerk of the Court or other officer having the custody of the records of the Court in which such conviction or acquittal was had, or by the deputy of such clerk or officer, to be a copy of the charge, finding and sentence, as the case may be.

Record of evidence in absence of accused.

121. If an accused person abscond, and after due pursuit cannot be arrested, any Court competent to try or to commit such accused person for trial for the offence complained of may, in his absence, record the statements of the persons acquainted with the facts; and such depositions may, on the arrest of such person, be put in on his trial for such offence, if it is not practicable to procure the attendance of such witnesses.

Convictions on evidence partly recorded by one Magistrate and partly by another.

122. Whenever any Magistrate, after having heard part of the evidence in a case, ceases to exercise jurisdiction in such case, and is succeeded by another Magistrate who has and who exercises jurisdiction in such case, such last-named Magistrate may decide the case on the evidence partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and commence afresh:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses shall be re-summoned and re-heard, in which case the trial shall be commenced afresh:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new trial.

Continuation of proceedings not completed by Magistrate commencing inquiry.

123. Whenever, from any cause, a Magistrate making an inquiry under this Act is unable to complete the proceedings himself, any other Magistrate having jurisdiction to inquire and to commit may complete the case and proceed as if he had recorded all the evidence himself.

When personal attendance of witness may be dispensed with.

124. Whenever in the course of a trial before a Magistrate it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate may dispense with the personal attendance of such witness.

Such Magistrate may direct a commission to the Magistrate of the District, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to take the evidence of such witness as directed in section 330 of the Code of Criminal Procedure.

Issue of commission and procedure thereunder.

Commission in case of witness being within jurisdiction of a High Court.

If the witness is within the local limits of the ordinary original criminal jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, the Court dispensing with his personal attendance may direct a commission to any Magistrate within such limits, and such Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him.

Prosecutor and accused may examine witness.

The prosecutor and the accused person may forward interrogatories, upon which the officer to whom the commission is directed shall examine the witness, or the prosecutor may appear personally before the Magistrate to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

CHAPTER XIV.

OF THE EXAMINATION OF ACCUSED PERSONS.

Examination of accused.

125. In all inquiries and trials under this Act, the Magistrate may from time to time, at any stage of the inquiry or trial and without previously warning the accused person, examine him, and put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in the case under inquiry, but also in trials for any other offences which his replies may tend to show he has committed.

Examination of accused how recorded.

126. Whenever an accused person is examined in the course of a preliminary enquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

No influence to be used to induce disclosures.

127. Except as is provided in section 128, no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Magistrate may tender pardon to accomplice.

128. A Magistrate may, after recording his reason for so doing, tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case, under the rules applicable to the examination of witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

When Magistrate or High Court may direct commitment of person to whom pardon has been tendered.

129. When a pardon has been tendered under section 128, if it appears to the Magistrate before the trial, or to the High Court, that any person who has accepted such offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence, such Magistrate or Court may commit, or direct the commitment of, such person, for trial for the offence in respect of which the pardon was so tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

CHAPTER XV.

OF SECURING THE ATTENDANCE OF WITNESSES.

Power to summon material witness or examine person present.

130. Any Magistrate may, at any stage of any proceeding, inquiry or trial, summon, in the manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness, and it shall be the Magistrate's duty to do so if the evidence of such person appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

131. If a Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Procedure when warrant cannot be served.

132. If such warrant cannot be executed, and the Magistrate considers that the witness absconds or conceals himself for the purpose of avoiding the service thereof, he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of such witness' ordinary place of abode, or if he has no such abode, of the Court of the Magistrate.

If the witness does not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness, to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall authorize the attachment of any moveable property within the jurisdiction of the Magistrate by whom it was made; and it shall authorize the attachment of any moveable property without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Release of attached property of witness appearing and satisfying Magistrate.

133. If the witness appears and satisfies such Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as to such Magistrate seems fit.

Sale of property of witness not appearing or not satisfying Magistrate.

If such witness does not appear, or, appearing, fails to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of section 172 of the Indian Penal Code.

If the witness pays to such Magistrate the costs and fine as aforesaid, his property shall be released from attachment.

Power to order prisoner in jail to be brought up for examination.

134. When any Magistrate is desirous of examining any prisoner confined in any civil or criminal jail as a witness or accused person in any case pending before him, it shall be lawful for such Magistrate to issue an order to the officer in charge of the said jail, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Court, for examination; and the officer in charge of the said jail, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

Arrest of person disobeying summons.

135. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal to bring such person before him to testify as aforesaid.

Committal of person refusing to answer.

136. If any witness summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 177 or 178.

Inquiries.

Procedure in inquiries preliminary to commitment.

137. In inquiries preliminary to commitment under this Act to a High Court, the Magistrate making the inquiry shall summon the witnesses for the prosecution to appear before him, and shall take their evidence against the accused person. The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person.

Summons to witnesses when accused person is to be committed.

138. In such inquiries, when the person accused is to be committed for trial, and has given in any list of witnesses mentioned in section 73, the Magistrate may either summon the witnesses to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Recognizances of prosecutors and witnesses.

139. Prosecutors and witnesses for the prosecution and defence, whose attendance is necessary before the High Court, and who appear before the Magistrate, shall execute before him recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute recognizance.

If any prosecutor or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him under custody to the High Court.

Witnesses.

In cases tried upon summons.

140. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

Ordinarily it shall be the duty of the complainant and accused to produce their own witnesses.

In such cases, it shall be in the discretion of the Magistrate to summon any witnesses named by the complainant or the accused; and he may require, in such cases, a deposit of the expenses of a witness before summoning him.

In cases tried upon warrant.

141. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall summon such of them to give evidence before him as he thinks necessary.

The Magistrate shall also, subject to the provisions of section 137, summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for that purpose, at his discretion, adjourn the trial from time to time.

Of Securing Documentary Evidence.

Procedure for obtaining production of document required as evidence.

142. Whenever a Magistrate considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, such Magistrate may issue a summons to the party in whose keeping such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

When warrant for search for documents may issue.

143. If there appears reason to believe that the person to whom the summons is addressed will not produce it as directed in the summons, such Magistrate may issue a search-warrant for the document in the first instance.

Power to impound document produced.

144. Any Magistrate may, if he thinks fit, impound any document produced before him, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

CHAPTER XVI.

OF SEARCH-WARRANTS.

Search-warrant when grantable.

145. When a Magistrate considers that the production of anything is essential to the conduct of an inquiry into an offence known or suspected to have been committed, or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by the search or inspection of any place,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the jurisdiction of the Magistrate.

The Magistrate issuing such warrant may, if he see fit, specify in his warrant the place or part to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Procedure as to letter in custody of Postal Department.

146. If any letter in the custody of the Postal Department is wanted for the purpose of any criminal proceeding, a Magistrate may, if he thinks fit, direct the postal authorities to deliver up any such letter.

Direction of search-warrant.

147. A search-warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing the warrant may, if immediate search is necessary and no Police-officer be immediately available, direct it to any other person.

Warrant to Police-officer may be executed by his subordinate.

148. A search-warrant directed or endorsed to a Police-officer may, if he is not able to proceed in person, be executed by any other Police-officer.

In such case the name of such Police-officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

Endorsement.

Execution of search-warrant out of district in which issued.

149. When it is necessary for a search-warrant to be executed out of the Presidency town in which it was issued, any Magistrate within whose local jurisdiction the warrant is to be executed shall endorse his name thereon.

Such endorsement shall be sufficient authority for the Police-officer charged with the execution of the warrant to execute the same within the said jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose local jurisdiction the search is to be made; and he shall thereupon endorse his name on such warrant, and enforce its execution in the same manner as if it had been issued by himself.

Search-warrants may, in emergency, be executed without endorsement.

150. Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose district the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the Police-officer charged with the execution of the warrant may execute the same, in any place beyond the district in which it was issued, without the endorsement of the Magistrate in whose local jurisdiction that place is situate.

Thing found to be taken to Magistrate within whose jurisdiction it is found.

If the thing for which search is made is found in such place, it shall, when the place where the thing is found is nearer to the Magistrate having jurisdiction in such place than to the Magistrate who issued the warrant, be immediately taken before the Magistrate in whose local jurisdiction it is found; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Order thereon.

If the thing be not found after such search, the Police-officer making the same shall, in addition to the return made to the Magistrate who issued the warrant, report the fact to the Magistrate in whose local jurisdiction the search was made.

Magistrate may issue search-warrant to be executed in place out of his jurisdiction.

151. Whenever it appears necessary, a Magistrate may, by his warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose local jurisdiction the place to be searched is situate.

Magistrate may send search-warrant by post to Magistrate having jurisdiction.

152. A Magistrate issuing a search-wararnt to be executed in any place out of the jurisdiction of the Magistrate, may direct the warrant to any Magistrate within whose local jurisdiction such place is situate, and may send the same by post.

Endorsement and execution by such Magistrate.

On receipt of such warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

In such case, any property found on search made may be dealt with as provided in section 150.

Search of house suspected to contain stolen property or forged documents.

153. If the Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid.

And if upon search thereupon made, such property, documents, stamps, seals, coins, instruments or materials be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate or otherwise dispose thereof in some place of safety; and moreover to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen, or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

Magistrate may attend personally.

154. The Magistrate by whom a search-warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may direct search in his presence.

The Magistrate may also direct a search to be made in his presence, of any place for the search of which he is competent to issue a search-warrant.

CHAPTER XVII.

BAIL.

When bail shall be taken.

155. When any person appears or is brought before a Magistrate accused of any bailable offence, he shall be admitted to bail.

156. When any person accused of any non-bailable offence appears or is brought before a Magistrate such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail not to be taken.

If the evidence given in support of the accusation is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

157. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused, and one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue to attend until otherwise directed by the Court, and, if required, shall appear when called upon at the High Court, to answer the charge.

Recognizance of accused and sureties.

158. If, through mistake or fraud, insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to give sufficient bail or to find sufficient sureties, and, in default, may be committed to prison.

Power to order sufficient bail when that first taken is insufficient.

159. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Admission to bail found after failure in first instance.

160. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some prison or other place of confinement, shall issue a warrant of release to the jailor or other person having him in his custody, and such jailor or other person shall thereupon release him.

Discharge on bail.

161. Any one or more of the sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

Discharge of sureties.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

162. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty, by issuing a warrant for the attachment and sale of the moveable property belonging to such person which may be found within the jurisdiction of the Magistrate.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within the jurisdiction of the Magistrate, and it shall authorize the distress and sale of any moveable property belonging to the accused person, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate within whose jurisdiction such moveable property is situated.

163. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid and if no sufficient cause for its non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within the jurisdiction of the Magistrate. Such warrant may be executed within the jurisdiction of the Magistrate; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate within whose jurisdiction such moveable property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the civil jail, during a period not exceeding six months.

164. The powers given by sections 162 and 163 may be exercised by every Magistrate in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court, according to the conditions of such recognizance or bail:

In what cases powers given by sections 162 and 163 may be exercised.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in the recognizance of the party or witness, or of the surety or sureties, and enforce payment in part only.

Remission of part of penalty.

165. When any person is required by any Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

Deposit instead of bail.

CHAPTER XVIII.

LUNATICS.

166. When any person charged with an offence before a Magistrate appears to such Magistrate to be of unsound mind and incapable of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the civil surgeon of the district, or some other medical officer, and thereupon shall examine such civil surgeon or other medical officer as a witness, and shall reduce the examination into writing.

Procedure in case of accused being lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

167. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the High Court, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, such accused person shall, if he appears to be sane at the time of inquiry, be sent for trial by the Magistrate before the High Court.

When accused appears to have been insane.

If an accused person appears to be insane at the time of inquiry, the Magistrate shall act in the manner provided in the last preceding section.

168. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

Release of lunatic on security given.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

Custody when bail not given.

169. Whenever an inquiry or trial is postponed under section 166, the Magistrate may at any time resume the inquiry or trial, and require the accused person, if detained in custody, to be brought before such Magistrate; or, if the accused person has been released on security, may require his appearance.

Resumption of inquiry or trial.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Magistrate appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector-General of Prisons or the visitors of lunatic asylums, granted under section 174.

170. If, when the accused person appears or is brought before the Magistrate, it appears to such Magistrate that the accused person is in a fit state of mind to make his defence, the inquiry shall proceed, or the accused person shall be put on his trial, as the case may require.

Procedure on accused appearing before Magistrate.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate shall again act according to the provisions of section 166.

171. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

Finding in case of acquittal on ground of being lunatic.

172. Whenever such finding states that the accused person committed the act charged, the Magistrate before whom the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Person found to have committed act charged to be kept in safe custody and report made to Government.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

173. When any person is confined under the provisions of section 168 or 172, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

174. If such person is confined under section 168, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 170; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

175. If such person is confined under the provisions of section 172, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 172 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as to it may seem fit.

Delivery of lunatic to care of relative.

176. Whenever any relative or friend of any person detained under the provisions of section 172 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that such person may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 173 and 175 shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XIX.

CONTEMPTS OF COURT.

Procedure in certain cases of contempt.

177. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of any Magistrate, the Magistrate may cause the offender, whether he be a European British subject or not, to be detained in custody; and, at any time before the rising of the Magistrate on the same day, may take cognizance of the offence, and adjudge the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case, the Magistrate shall record the facts constituting the offence, with any statement the offender may make, as well as 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 Magistrate insulted or interrupted was sitting, and the nature of the interruption or insult offered.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

178. If the Magistrate in any case considers that a person accused of any such offence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate after recording the facts constituting the offence, and the statement of the accused person as before provided, shall forward the case to another Magistrate, and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or, if sufficient bail be not tendered, shall cause such person to be forwarded under custody to such Magistrate.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate; and may adjudge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

Any person convicted under this section may appeal to the High Court.

Discharge of offender on submission or apology.

179. When any Magistrate has adjudged an offender to punishment, or forwarded him to another 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 former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

CHAPTER XX.

OF THE CHARGE.

Form of Charges.

Charge to state offence.

180. The charge shall state the offence with which the accused person is charged.

Specific name of offence, sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the prisoner notice of the matter with which he is charged.

The Act and section or sections of the Act against which the offence is said to have been committed must be referred to in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the prisoner, the charge must be read to him in a language which he understands.

Previous conviction to be set out in charge.

If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting: this is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

181. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

182. When the nature of the case is such that the particulars mentioned in sections 180 and 181 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

183. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

184. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 182, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

185. Any accused person may apply to the Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.

Court may amend charge.

186. The Court may, upon the application of the accused person, or of the prosecutor, or upon its own motion, amend or alter any charge at any stage of the proceedings before judgment is pronounced. Such amendment shall be read and explained to the accused person.

When trial may proceed immediately after amendment.

187. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When new trial may be directed or trial suspended.

188. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to

the case, or whom the accused person may wish to be summoned in his defence.

Prosecutor and accused person may recall witnesses.

189. In all cases of amendment or alteration of a charge, the prosecutor and accused person shall be allowed to recall and examine with reference to such amendment or alteration any witness who may have been examined.

Previous sanction to be obtained if offence in new charge require it.

190. If the offence stated in the new charge be one for which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the new charge was based.

Joinder of Charges.

Separate charges for distinct offences.

191. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

192. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

EXPLANATION.—Offences are said to be of the same kind under this section if they fall within the provisions of section 194.

I.—Trial of more than one offence.

193. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed, but he must not receive a more severe punishment than could be awarded for any of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed, but he must not receive for such offences, collectively, a punishment more severe than that which might have been awarded for any one of such offences.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for, the possession of each seal for a distinct forgery under section 473 of the Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d.*) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 or 195 of the Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant engaged in suppressing the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g.*) A criminally intimidates B, C and D at the same time. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, three offences under section 302 of the Indian Penal Code.

To paragraph II.

(*i.*) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with, and convicted of, offences under sections 426 and 379 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 379 only.

(*j.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 323 only.

(*k.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 429 only.

(*l.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(*m.*) A uses a forged document in evidence, in order to convict B, a public servant, of an offence under section 167. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

To paragraph III.

(*n.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

(*o.*) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 392 or 394 only.

(*p.*) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

Where it is doubtful what offence has been committed.

194. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft, or criminal breach of trust, or cheating.

When a person is charged with one offence, he can be convicted of another.

195. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust, or receiving stolen goods. He may be convicted of criminal breach of trust, or receiving stolen goods, though he was not charged with it.

When offence proved included in offence charged.

196. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

What persons may be charged jointly.

197. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges, on conviction on one of several charges.

198. When more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government pleader or other officer conducting the prosecution may, with the consent of the Court, withdraw, or the Court of its own accord may suspend, the inquiry into the remaining charge or charges.

Previous Acquittals or Convictions.

Person once convicted or acquitted not to be tried for same offence.

199. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 194, or for which he might have been convicted under section 195.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 193, paragraph one.

A person acquitted or convicted of any offence in respect of any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence in respect of any facts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged, upon the same facts, either with theft as a servant, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged before the High Court and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(*f.*) A is charged by a Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three of this section.

(*g.*) A is charged by a Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*h.*) A, B and C are charged by a Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity, on the same facts.

CHAPTER XXI.

PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

200. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294 A of the same Code, shall not be entertained by any Magistrate, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution of Judges and public servants.

201. A complaint of an offence committed of which any Judge or any public servant not removeable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against him except with the sanction or under the direction of the Government, or of some officer empowered by the Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Government does not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the discharge of his duty, unless with the sanction of the Government.

Sanction when to be given.

The sanction must be given before the commencement of the proceedings.

Power of Local Government as to prosecution.

The Local Government may limit the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial is to be held.

In this section the expression "Government" means either the Local Government or the Governor General in Council and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

Prosecution for contempts of the lawful authority of public servants.

202. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179 or 180 of that Code, shall not be entertained by any Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

EXPLANATION.—In cases under this chapter, the report or application of the public servant shall be deemed sufficient complaint.

Sanction to prosecution for certain offences against public justice.

203. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be entertained by any Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

204. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be entertained against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Nature of sanction necessary.

205. The sanction referred to in sections 201, 202 and 203, may be expressed in general terms, and need not name the accused person and may be given at any time.

Such sanction may be given at any time, and a sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Magistrate to amend the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

EXPLANATION.—In cases under this chapter, the report or application of the public servant or Court shall be deemed sufficient complaint.

Procedure in cases mentioned in sections 201, 202 and 203.

206. When any Court, civil or criminal, is of opinion that there is sufficient ground for inquiring into any complaint mentioned in sections 201, 202 and 203, such Court, after making such preliminary inquiry as may be necessary, may either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Such Magistrate shall thereupon proceed according to law, and the Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

Prosecution for adultery.

207. A complaint of an offence under section 497 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

Prosecution for enticing away married woman.

208. A complaint of an offence under section 498 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

CHAPTER XXII.

OF SECURITY FOR KEEPING THE PEACE.

Personal recognizance to keep the peace in cases of conviction.

209. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Magistrate,

and the Magistrate by whom such person is convicted, or the Magistrate by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

such Magistrate may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year, with a provision that, if the same be not given, the person required to enter into the engagement shall be kept in simple imprisonment for any time not exceeding one year, unless within such period such person execute such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence when he is released on the expiration of his sentence.

In any case where the order is not made at the time of signing, or by the Magistrate who signs, the judgment, the convict must be produced before the Magistrate who adds the order to enter into a personal recognizance to the original sentence.

Security to keep the peace.

210. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Magistrate may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding one year.

Summons to person to show cause why he should not give bond to keep peace.

211. Whenever a Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate thinks fit.

EXPLANATION I.—A summons calling on a person to show cause why he should not be bound over to keep the peace, may be issued on any report or other information which appears credible and which the Magistrate believes; but the Magistrate cannot bind over a person until he has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may recall a summons issued under this section if he thinks proper.

Contents of summons.

212. Such summons shall set forth the substance of the report or information on which it is issued, the amount of the bond, and the term for which it is to be in force, and, if security is called for, the number of sureties required, and the amount in which they are to be bound respectively, and the time and place at which the person summoned is required to attend.

EXPLANATION.—When the parties are present in Court no summons is necessary, but the person to whom a summons would have been issued must have an opportunity to show cause why he should not be bound.

Form and penalty of bond.

213. The bond shall be in the form (E) given in the third schedule hereto annexed or to the like effect; and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

The amount in which the sureties shall be bound shall not exceed the penalty named in the bond.

When warrant of arrest may issue.

214. If the person summoned does not attend at the time and place named in the summons on the day appointed, such Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate may at any time issue a warrant for his arrest.

Magistrate may dispense with personal attendance of person informed against.

215. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 211 and may permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of person informed against.

216. If on the appearance of such person informed against, or of his agent if he is permitted to appear by agent, the Magis-

trate is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate shall direct his discharge.

Order to give bond and consequence of non-compliance.

217. If the Magistrate is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if such person fails to comply with the order, the Magistrate may order him to be kept in simple imprisonment until he furnish the same.

Time for which person may be bound to keep peace.

218. The period for which the Magistrate may bind a person to keep the peace, with or without security, shall not exceed one year.

When a person is imprisoned under section 217, he shall not be detained by authority of the Magistrate beyond the term of one year, and shall be released whenever, within that term, he complies with the order.

Limit of imprisonment under section 217.

Extension of time for which person is bound.

219. Whenever it appears to a Magistrate that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend the term for a further period not exceeding one year.

If such person fails to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate under the orders of the High Court, directs, he may be kept in simple imprisonment for such further period, or until, within that period, he gives such bond.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 211.

Discharge of recognisances.

220. A Magistrate may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken by him, or by his predecessor, under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

221. A surety for the peaceable conduct of another person may at any time apply to a Magistrate to be relieved from his engagement as surety.

On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound may appear or be brought before him.

On the appearance of the person to such warrant, or on his voluntary surrender, the Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and, in default thereof, shall order him to be kept in simple imprisonment.

Recovery of penalty from principal.

222. Whenever it is proved before a Magistrate that any recognizance or other bond taken under this chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by such recognizance or bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any of the moveable property belonging to the person bound by such recognizance or bond.

Such warrant may be executed within the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person bound, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such person shall be liable to imprisonment by order of the Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person bound has had an opportunity of showing cause, and until the breach of the conditions has been proved.

The commission, or attempt to commit or abetment, of any offence whatever, and wherever it may be committed, is a breach of the bond.

Proceedings under this chapter may be taken, either in the district in which the breach of the peace is apprehended, or where an offence has been committed in breach of the bond, or in any district where the person it is desired to bind may be.

Recovery of penalty from surety.

223. Whenever it is proved before a Magistrate that any bond with a surety has been forfeited, the Magistrate may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

And in case such penalty cannot be so recovered, the surety shall be liable, by order of such Magistrate, to imprisonment in the civil jail for a period not exceeding six months.

CHAPTER XXIII.

OF SECURITY FOR GOOD BEHAVIOUR.

When Magistrate may require security for good behaviour for six months.

224. Whenever it appears to a Magistrate that any person is lurking within his jurisdiction, or that there is within his jurisdiction a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such security for such person's good behaviour for a period not exceeding six months as to him may appear good and sufficient.

If in any case under this or the two following sections, the person to be bound is under sentence for an offence, he must be brought up on or after the expiration of his sentence for the purpose of being bound.

Binding of sentenced person.

When Magistrate may require security for good behaviour for one year.

225. Whenever it appears to a Magistrate from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood, or is a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

Procedure where security required for more than one year.

226. Whenever it appears to a Magistrate, from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release without security, at the expiration of the limited period of one year, hazardous to the community,

he shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number, character and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour; and if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

Proceedings to be laid before High Court.

227. If a person required to furnish security under the provisions of the last preceding section does not furnish the same, or offers sureties whom the Magistrate sees fit to reject, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass orders on the case, either confirming, modifying or annulling the orders of such Magistrate, as it thinks proper.

High Court may require security for period not exceeding three years.

228. If the High Court does not think it safe to direct the immediate discharge of such person, it shall fix a period for his detention, not exceeding three years, in the event of his not giving the security required from him.

Contents of order for security.

229. Whenever security for good behaviour is required by the High Court or by a Magistrate the amount, the security, the number and description of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order.

Form of bond.

The security-bond shall be in the form (G) given in the third schedule hereto annexed or to the like effect.

Imprisonment in default of security.

230. In the event of any person required to give security under the provisions of this Act failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Term of imprisonment.

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment under this section may be rigorous or simple, as the Court or Magistrate in each case directs.

Release of prisoners under requisition of security.

231. The Magistrate may at any time exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order, or that of his predecessor in office, provided he is of opinion that such person can be released without hazard to the community.

Report in case of prisoner under requisition of security by order of High Court.

232. Whenever a Magistrate is of opinion that any person confined under requisition of security for good behaviour, by order of the High Court, can be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Discharge of surety.

233. A surety for the good behaviour of a person may at any time apply to a Magistrate to be relieved from his engagement as such surety.

On such application being made, such Magistrate shall issue his summons or warrant in order that such person may appear or be brought before him.

On the appearance of such person pursuant to such summons or warrant, or on his voluntary surrender, such Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and, in default thereof, shall commit him to custody.

Recovery of penalty from sureties.

234. Whenever a Magistrate is of opinion that, by reason of an offence proved to have been committed by a person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, such Magistrate shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

If such penalty be not paid and no sufficient cause for non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety by issuing a warrant for the attachment and sale of any moveable property belonging to him. Such warrant may be executed within the jurisdiction of the Magistrate by whom it is issued; and it shall authorize the distress and sale of any moveable property belonging to such surety, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment by order of a Magistrate of Police in the civil jail for a period not exceeding six months.

235. The provisions of sections 212 and 214, relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, when such party is not in custody, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

Issue of summons and warrant of arrest.

Proceedings may be taken under this chapter, against persons amenable to its provisions, in any district where they may be.

Place where proceedings may be held.

Any previous conviction against the person to be bound may be proved on proceedings held under this chapter.

Previous convictions may be proved.

236. A Magistrate may refuse to accept any surety offered under this chapter, on the ground that such surety is an unfit person.

Sureties may be rejected for unfitness.

237. The provisions of this chapter do not apply to European British subjects.

Provisions of chapter not to apply to European British subjects.

CHAPTER XXIV.

POSSESSION.

238. Whenever any person is convicted by a Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

Power to restore possession of immoveable property.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XXV.

OF THE MAINTENANCE OF WIVES AND FAMILIES.

239. If any person, having sufficient means, neglects or refuses to maintain his wife; or legitimate or illegitimate child unable to maintain himself, a Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as to such Magistrate seems reasonable.

Order for maintenance of wives and children.

Such allowance shall be payable from the date of the order.

If such person wilfully neglects to comply with this order, such Magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; and may order such person to be imprisoned, with or without hard labour, for any term not exceeding one month, for each month's allowance remaining unpaid:

Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by consent.

240. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 239, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit, provided the total sum of rupees fifty a month be not exceeded.

Alteration in allowance.

241. A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person, and shall be enforceable by any Magistrate in any place where the person to whom the order is addressed may be, on the Magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed.

Enforcement of order.

CHAPTER XXVI.

MISCELLANEOUS.

242. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Police Court.

Procedure in miscellaneous criminal cases and proceedings.

243. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by Magistrates and may be tried according to the provisions of this Act.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

244. The jurisdiction given to Magistrates under section 243 may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not; but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Magistrate before whom the offender is charged.

Extent of jurisdiction.

245. A Magistrate disposing of any complaint may award such costs as he thinks fit, to be paid to or by either of the parties, as he directs, and such costs shall be recoverable as if they were fines.

Power to award costs.

246. A Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to prison or release him on bail to appear for judgment when called upon.

Reference to High Court.

247. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit. A copy of the decision of the High Court, under the seal of the Court and the signature of the Registrar, shall be transmitted to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said decision, and shall also be empowered to direct by whom the costs of the reference shall be paid.

Disposal of case according to decision of High Court.

Direction as to costs.

248. When the inquiry or trial before any Magistrate is concluded, he may make such order as appears right for the disposal of any property produced before him, regarding which any offence appears to have been committed.

Order for disposal of property regarding which offence committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

249. Upon a conviction of any offence by means of or in consequence of which the possession of property has been transferred, the Magistrate may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner; and, in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same, a fine not exceeding the value of the said property, which the Magistrate may order to be paid to the owner or his representative.

Power to order restitution of property, or fine the offender.

250. If any property charged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Magistrate, or in prosecution of any charge of an offence in regard to the obtaining thereof, and the person charged with such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted, or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty, or if any property has been seized by a Police-officer under chapter XVI, it shall be lawful for any Magistrate to make an order for the delivery of such property to the party appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, then to make such order with respect to the property as the Magistrate thinks fit:

Power to order disposal of property connected with charge, in Police-custody.

Provided that no such order shall bar the right of any person to sue the party to whom the property is delivered, and to recover such property from him, so that the suit be commenced within two months next after such order has been made.

251. Subject to any rules that may be passed by the Local Government, with the previous sanction of the Governor General in Council, a Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

Expenses of complainants and witnesses.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Acts.

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and" Sections twenty-two, twenty-three, twenty-six to thirty one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-three, ninety-five to ninety-eight (both inclusive), one hundred to one hundred and three (both inclusive), one hundred and six, one hundred and eight, one hundred and ten and one hundred and eleven. In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, fifty-eight, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive).
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, seventy-nine, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive).
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFICES.

(See Section 4.)

EXPLANATORY NOTES.—1*st*.—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2*nd*.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 155 and 156 of this Act.

3*rd*.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4*th*.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V.—OF ABETMENT.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso,	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto -	Ditto -	Ditto -	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	Not bailable.	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto -	Ditto -	Ditto -	Imprisonment extending to half of the longest term, and of any description, provided. for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto -	Ditto -	Not bailable.	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto -	Ditto -	Not bailable.	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto -	Ditto -	Ditto -	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed - - -	Ditto -	Ditto -	Ditto -	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto	Ditto	Ditto	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto	Ditto	Bailable	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Or to go armed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Ditto.

CHAPTER X.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonmentfor 1 month, or fine of 500 rupees, or both.	Magistrate of Police.
	If the notice or information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto	Ditto	Ditto	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto	Ditto	Ditto	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto	Ditto	Ditto	The same as for the offence	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto	Ditto	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for ten years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto
209	False claim in a Court of Justice -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years...	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing appenhension of offender.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Imprisonment of either description for two years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 Offence.	3. Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death - -	May arrest without warrant.	Warrant -	Not bailable-	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation -	Ditto -	Ditto -	Not bailable-	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons -	Ditto -	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of Police.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court of Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin. - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto -	Ditto -	Ditto -	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant.	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto -	Ditto -	Ditto -	Ditto - - - -	High Court.
245	Unlawfully taking from a Mint any coining instrument.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
258	Sale of counterfeit Government stamp -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto -	Ditto -	Ditto -	Ditto - -	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health	Shall not arrest without warrant.	Ditto	Ditto	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy	Ditto	Warrant	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of Rs. 1,000, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant	Not bailable	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant	Not bailable	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act	Ditto	Ditto	Bailable	Imprisonment of either description for two years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine.	High Court.
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year and fine.	Magistrate.
311	Being a thug	Ditto	Ditto	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
	Of Hurt.					
323	Voluntarily causing hurt	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto	Ditto	Ditto	Ditto	Ditto.
329	Voluntarily causing grevious hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of wrongful Restraint and wrongful Confinement.					
341	Wrongfully restraining any person -	May arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret - -	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	Of Criminal Force and Assault.					
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault:—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto.	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences - - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft - - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence ...	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

Of Robbery and Dacoity.

392	Robbery - - - -	May arrest without warrant.	Warrant -	Not bailable	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery - -	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto -	Ditto -	Ditto -	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity - - - -	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court.
396	Murder in dacoity - - -	Ditto -	Ditto -	Ditto -	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
399	Making preparation to commit dacoity -	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of Police.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued*.

Of Mischief—concluded.

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
468	Forgery for the purpose of cheating	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	Punishment for forgery	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Not bailable	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the document is a valuable security or will	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*concluded.*

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	Summons	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery - - - -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto	Ditto	Bailable	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto	Ditto	Ditto	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons	Bailable	.....	Magistrate.
	If punishable with fine only	Ditto	Ditto	Ditto	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 37).

To *A. B.*, of

Whereas your attendance is necessary to answer to a complaint of (*state shortly the offence complained of*): You are hereby required to appear in person or by authorized agent, as the case may be, before the [Magistrate] of on the day of . Herein fail not.

(*Signature and Seal.*)

Dated the day of

B.

FORM OF WARRANT (*section* 46).

To (*name and designation of the person or persons who are to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*): You are hereby directed to apprehend the said and produce him before me. Herein fail not.

(*Signature and Seal.*)

[*This warrant may be endorsed as follows:*—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 106).

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

D.

FORM OF WARRANT OF COMMITMENT (*section* 106).

To , the officer in charge of the Jail

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*), and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*): You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

E.

FORM OF BOND TO KEEP THE PEACE (*section* 213).

Whereas I, , inhabitant of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*section* 139).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be,* to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF BOND FOR GOOD BEHAVIOUR (*section* 229).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 183).

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

On Penal Code, section 121.

(*b.*) That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

[*To be substituted for* (*b*)].

On section 124.

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(3). That you, being a public servant in the Department, directly accepted from [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(5.) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(6.) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(9.) That you, on or about the day of , at did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 193.

(10.) That you, on or about the day of , at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[*In cases tried by Magistrates, substitute* " within my cognizance" *for* " within the cognizance of the High Court." *In.* (*d*), *omit* " by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a.*) I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

On Penal Code, sections 241 and 242.

(*b.*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

On sections 302 and 304.

For (*b*). *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the High Court;" *and omit* "by the said Court."

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 26, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February 1876, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. 2 OF 1876.

A Bill to enable the Government of India to declare certain coins of Native States to be a legal tender in British India.

WHEREAS it is expedient to enable the Governor General in Council to declare that a tender of payment of money, if made in certain coins made for or issued by Native States, shall be a legal tender in British India; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Native Coinage Act, 1876":

Short title.

It extends to the whole of British India;

Local extent.

And it shall come into force at once.

Commencement.

2. In this Act "Native State" means any Prince or State in India in alliance with Her Majesty.

Interpretation-clause.

3. Subject to the provisions of section four, the Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made for or issued by any Native State, shall be a legal tender in British India;

Power to declare that the coins of a Native State shall be legal tender.

and the provisions of the Indian Coinage Act, 1870, shall apply to the coins to which such notification refers, so far as such provisions are applicable thereto, and save as expressly provided by such notification.

4. The power conferred by the first clause of section three shall be exercisable only when the coins referred to in such notification comply with the following conditions (that is to say)—

When such power may be exercised.

in the case of coins of gold, silver or bronze,

(*a*) their fineness is identical with that for the time being prescribed by law for coins of the Government of India of the same metal;

in the case of coins whether of gold, silver, bronze or copper,

(*b*) they are identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any Mint of the Government of India, or bear such relation thereto as is approved by the Governor General in Council;

(*c*) the devices upon their obverse and reverse differ from the devices on coins now made or issued by any such Native State, and have been approved by the Governor General in Council;

(*d*) upon each of such coins its value in money of the Government of India is inscribed in the English language;

(*e*) the Native State for which they are coined has undertaken to abstain during a term of not less than thirty years, from coining in its own mint gold, silver, bronze or copper, as the case may be, and has also undertaken that no coins resembling coins for the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction;

(*f*) such State has formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall be a legal tender in the territories subject to such State:

(*g*) such State has also agreed that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for or issued by such State under this Act, and that it will defray the cost of cutting and breaking them ; and

(*h*) such State has also agreed not to issue the same coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation.

Native States authorised to send metal to British Indian mint for coinage.

5. It shall be lawful for any such State to send to any mint in British India metal to be made into coin under this Act ; and, subject to the Mint-rules for the time being in force, and to the provisions hereinafter contained, the Mint-master shall receive such metal and convert it into coin, provided that it be fit for coinage.

Nothing herein contained shall be deemed to entitle any such State to have coins made under this Act at any Mint of the Government of India of any metal which is not for the time being legally coined at such Mint.

Power to impose a charge for coinage.

6. The Governor General in Council may impose on the coinage of any metal under this Act a charge sufficient to defray the expenses of coinage over and above the expenses of assay and refining ; and the Mint-master shall coin such metal at the charge so imposed.

Power to limit number of coins to be made under this Act for any Native State.

7. The Governor General in Council may from time to time, with reference to the reasonable requirements of the population of any Native State, fix the maximum number of any particular coins that shall be coined under this Act.

STATEMENT OF OBJECTS AND REASONS.

The establishment of a uniform coinage throughout the Indian Peninsula has long been recognized as politically and socially expedient, and the present Bill is intended to be a first step in this direction. It proposes to enable the Governor General in Council to declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made for or issued by any Native State shall (subject to the provisions of the Indian Coinage Act, 1870) be a legal tender in British India.

2. The power is limited by the following restrictions:—

(*a*). The fineness of the coins of the Native State in question must be identical with the fineness legally prescribed for the coins of the Government of India of the same metal :

(*b*). They must be identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any of its Mints, or bear such relation thereto as is approved by that Government :

(*c*). The devices upon their obverse and reverse must differ from the devices on coins now made and issued by any Native State, and have been approved by the Government of India :

(*d*). Upon each of such coins its value in money of the Government of India must be inscribed in English :

(*e*). The Native State for which they are coined must have undertaken (1) to abstain during a term of not less than 30 years from coining in its own mint, gold, silver, bronze, or copper, as the case may be, and (2) that no coins resembling coins which are for the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction :

(*f*). Such State must have formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall be a legal tender in the territories subject to the same State :

(*g*). Such State must have also agreed that the rules for the time being in force respecting the cutting and breaking of worn or counterfeit or called-in coin of the Government of India shall apply to the coins made or issued by such State, and that it will defray the cost of cutting and breaking them :

(*h*). Such State must also have agreed not to issue the same coins below their nominal value, and not to allow any advantage to any person in order to bring them into circulation.

3. In the case of gold coins the power to be conferred by the proposed Act will not of course be exercised unless a tender of payment in gold coined under Act XXIII of 1870 has been made a legal tender in British India.

4. The Bill authorises the Native States to send proper metal to any British Indian mint to be coined under the proposed Act, and enables the Government of India to impose a reasonable charge for coining it. But no such State will be entitled to have coins made at any mint of the Government of India of any metal not for the time being legally coined at such mint.

5. Lastly, the Governor General in Council is empowered to limit the number of any particular coin to be made under the proposed Act for any Native State.

6. The Act will not be brought into force with regard to the coins of any Native State which has not now a mint in active operation, unless the right of such State to re-open a mint is specially recognized by the Government of India.

Calcutta, 27th January 1876.

W. MUIR.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February 1876 :—

We, the undersigned Members of the Select Committee to which the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Telegram from Government of Bombay, dated 22nd February 1875.
From Government of Bengal, No. Z, dated 1st March 1875.
From Magistrate of Police, Madras, dated 19th February 1875.
Remarks by Major Weldon, Chief Magistrate, Madras, dated 24th December 1875.
From Government of Madras, No. 101, dated 19th January 1876, and enclosures.
Further remarks by Major Weldon, Chief Magistrate, Madras, dated 26th January 1876.

2. In compliance with suggestions received from several quarters, we have placed in the body of the Bill the sections which, as it was last settled, were only referred to in the first schedule.

3. We have added a few sections from the Police Acts now in force in the Presidency towns. And we have incorporated the substance of Act LII of 1860, and made similar provisions as to offences against the Acts relating respectively to Telegraphs, the Post Office and Arms and Ammunition.

4. We have provided for the record of the important particulars in each case and for the record of evidence in all cases in which such record is expedient.

5. The circumstances of the Presidency towns are such that it is unnecessary to require that the punishment of whipping is to be inflicted in the presence of a medical officer.

6. The subject of local nuisances is sufficiently provided for by the several Municipal Acts. We have therefore dispensed with the chapter relating to that subject.

7. We find that the Court of Petty Sessions at Bombay has fallen almost entirely into disuse. The powers conferred on it by Bombay Act IV of 1866, have never been availed of ; and in the year 1874 the only work done was 12 opium cases and 13 municipal appeals. Under these circumstances, and considering that no such Courts exist at Calcutta and Madras, we have provided for the abolition of the Court, reserving, however, the hearing of municipal appeals to the Senior Magistrate, who is already the "Revenue Judge" at the Presidency.

8. We have made considerable additions to the schedule of repeals.

9. We recommend that the Bill as now amended be republished in the *Gazette of India*, and that no further steps be taken in the matter until after the lapse of one month.

The 11th February 1876.

T. C. HOPE.
A. HOBHOUSE.
E. C. BAYLEY.

No. III.

THE PRESIDENCY MAGISTRATES' BILL, 1876.

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A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Preamble.

WHEREAS it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns and to increase the jurisdiction of such Courts; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Magistrates' Act, 1876":

Local extent.

It extends to all places within the local limits of the ordinary original criminal jurisdiction of the High Courts of Judicature at Fort William, Madras and

Bombay, and within the limits of the ports of the said towns and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues;

Commencement. And it shall come into force at once.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

Repeal of enactments.

3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law.

Saving of powers under local laws.

4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule.

Matters indicated in second schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any other law referred to in section twelve;

whether a warrant or a summons shall ordinarily issue in the first instance, and;

whether the offence is bailable or not,

are indicated respectively by the third, fourth and fifth columns of the same schedule.

5. Cases pending in any of the Courts of Police Magistrates within the said limits when this Act comes into force shall be decided, as far as may be, according to the procedure provided in this Act.

Pending cases.

6. In this Act the following words and expressions have the following meanings, unless a different intention appears from the context:—

Definitions.

"Special law." "Special law" means a law applicable to a particular subject:

"Local law." "Local law" means a law applicable to a particular part of British India:

"Investigation" includes all the proceedings by the Police, authorized by this Act, for the collection of evidence:

"Investigation."

"Inquiry" includes any inquiry which may be conducted by a Magistrate under this Act:

"Inquiry."

"Inquired into" means and includes every proceeding preliminary to trial:

"Inquired into."

"Trial" means the proceedings taken in Court from the time when the accused appears in Court, and includes the punishment of the offender:

"Trial."

"Written" includes "printed," "lithographed," "photographed" and "engraved":

"Written."

"Magistrate." "Magistrate" includes a Presidency Magistrate:

"Presidency-town" includes all places within the limits mentioned in section one:

"Presidency-town."

"District" shall be deemed to have the meaning attached to it in the Code of Criminal Procedure, and shall include a Presidency-town:

"District."

"High Court." "High Court" means the High Courts of Judicature at Fort William, Madras and Bombay:

"Cognizable offence or case" means an offence for, or a case in, which a Police-officer may, by any law in force for the time being, arrest without warrant:

"Cognizable offence or case."

"Non-cognizable offence or case" means an offence for, or a case in, which a Police-officer may not arrest without warrant:

"Non-cognizable offence or case."

"Bailable offence or case" means an offence for, or a case in, which bail may be taken under any law in force for the time being:

"Bailable offence or case."

"Non-bailable offence or case" means an offence for, or a case in, which bail may not be taken under any law in force for the time being.

"Non-bailable offence or case."

In every part of this Act, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

CHAPTER II.

CONSTITUTION AND POWERS OF THE MAGISTRATES' COURTS.

7. The Local Government may, with the sanction of the Governor General in Council, constitute within the said Presidency-towns respectively so many Divisions as the said Government thinks fit, and may define the extent thereof, and from time to time alter the number and extent of such divisions, and establish a Presidency Magistrate's Court for each of such divisions.

Establishment of Presidency Magistrates' Courts.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns, respectively, who may sit and act as such Magistrates in any of the said Courts, and may suspend or remove persons so appointed.

Appointment of Presidency Magistrates.

Every person so appointed shall, by virtue of his office, be a Justice of the Peace for the said towns, and shall exercise all powers and jurisdictions which, by virtue of any law for the time being in force, may be exercised by two Justices of the Peace.

Presidency Magistrates to be Justices of the Peace.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law now in force may be exercised by the Court of Petty Sessions.

9. In every Presidency-town the Local Government shall appoint one of the Presidency Magistrates to be Senior Magistrate, and such Magistrate shall exercise in such town all the powers which by any law, regulation or rule, are required to be exercised by any Senior or Chief Magistrate, and shall have authority

Appointment and powers of Senior Magistrate.

to make rules, not being inconsistent with the provisions of this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Notwithstanding anything in the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Senior Magistrate.

10. All existing Magistrates of Police shall be deemed Presidency Magistrates under this Act, and all references in any Act now in force to Magistrates of Police shall be deemed to be made to such Presidency Magistrates.

Saving of existing incumbents.

11. Presidency Magistrates may pass the following sentences on persons convicted before them of offences which the said Magistrates are competent to try:—

Sentences which Magistrates may pass.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law):

Fine to the extent of one thousand rupees:

Whipping.

A Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award.

12. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by the Courts appointed under this Act. But no such Court shall award any sentence in excess of its powers.

Offences under enactments not specifying Court authorized to try.

13. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Offence committed in Magistrate's presence.

14. A Magistrate may record any statement made to him by any person, or any confession made to him by any person accused of an offence by any Police-officer or other person. Such statements and confessions shall be recorded in the manner hereinafter prescribed for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried. No Magistrate shall record any such confession unless, upon enquiry, he has reason to believe that it was made voluntarily, and he shall make a memorandum at the foot of any such confession to the following effect:—

Powers of Magistrate to record statements and confessions.

"I believe that this confession was voluntarily made."

(Signed) A. B.,
Presidency Magistrate.

15. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, such Magistrate may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or such other person as aforesaid, as the case may be, and may compel compliance with such order, using force if necessary.

Magistrate may compel immediate restoration of such woman or child.

CHAPTER III.

THE PLACE OF INQUIRY AND TRIAL.

16. Every offence shall ordinarily be inquired into, and, if tried by a Magistrate, shall be tried in the district in which it was committed. If tried by a High Court, it shall (subject to the provisions of section 64A of the Code of Criminal Procedure) be tried by that High Court to which the Magistrate commits.

Place for inquiry and trial of offence.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

17. When a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or omitted to be done, or any such consequence has ensued.

Accused triable in district where act done, or where consequence ensues.

Illustrations.

(*a.*) A is wounded in the district of X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in the district of X, and is, during twenty days, unable to follow his ordinary pursuits in the district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in the district of Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in district X or district Y.

18. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it happened, or in the district in which the offence with which it was so connected happened.

Place for trial where act is offence by reason of relation to other offence.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in any district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of the original concerted plan and with reference to the common object.

Place for inquiry or trial where scene of offence is uncertain;

19. When it is uncertain in which of several districts an offence was committed; or

or not in one district only;

where an offence is committed partly in one district and partly in another; or

or offence is continuing;

where the offence is a continuing one and continues to be committed in more districts than one; or

or consists of several acts.

where it consists of several acts done in different districts,

it may be inquired into and tried in any one of any of such districts.

Illustrations.

(*a.*) An offence committed on a journey or voyage may be inquired into and tried in any district through which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

(*b.*) An offence committed near the boundary between two districts may be inquired into and tried in either.

(*c*) A charge of being a thug, or of having belonged to a gang of dacoits, may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*d.*) A charge of having escaped from custody may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*e.*) A charge of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried, either in the district in which the property which is the subject of the offence was received, or in the district or districts in which the whole or any part of it has been misappropriated, or where the offence of criminal breach of trust has been wholly or partly committed.

(*f.*) A steals a buffalo from B in district W, and personally, or by his agents, conveys the buffalo through districts X and Y into district Z. This is a continuing offence, and A may be tried either in W, X, Y or Z.

Murder as a thug, dacoity or dacoity with murder.

20. The offence of murder as a thug, dacoity or dacoity with murder may be inquired into and tried wherever the person accused may happen to be when arrested, or in any other district in which he might be tried under any other provision of this Code, or any other law relating to the trial of such offence.

High Court to decide, in case of doubt, district where inquiry shall take place.

21. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

22. No sentence or order of any criminal Court shall be liable to be set aside merely on the ground that the investigation, inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person was actually prejudiced in his defence, or the prosecutor in his prosecution, by such error, in either of which cases a new trial may be ordered.

CHAPTER IV.

OF THE DUTY OF THE PUBLIC.

All persons to give information of certain offences.

23. Every person aware of the commission of any offence made punishable under section 121, 121 A, 122, 123, 124, 124 A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Magistrate.

All persons to assist Magistrate and Police in certain cases.

24. Every person is bound to assist a Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest.

CHAPTER V.

OF COMPLAINTS TO A MAGISTRATE.

Processes.

25. Proceedings to compel the appearance before a Magistrate of persons accused or suspected of offences, who have not been arrested without warrant, may be by summons or by warrant.

When summons or warrant may be issued.

26. A summons or a warrant may be issued—

(*a.*) upon information or report by a Police-officer. Such information or report shall be regarded as a complaint:

(*b.*) upon a complaint by a private person. Any person acquainted with the facts of a case may make a complaint:

(*c.*) upon suspicion entertained by a Magistrate that an offence has been committed.

Who may entertain complaints.

27. A Magistrate may entertain a complaint of an offence, whether preferred directly by the complainant, or on report of a Police-officer, and may issue process, in the manner hereinafter prescribed, to compel the appearance of persons accused of such offences.

Effect of complaint or Police report.

A complaint or a Police report gives jurisdiction to a Magistrate to inquire into or try any offence covered by the facts complained of or reported, and also to try or commit for trial any person who, at the time when the complaint or report is made, or subsequently, appears to have committed the offence disclosed.

Who may act without complaint.

28. A Magistrate may, without any complaint, take cognizance of any offence which he suspects to have been committed, and may issue process in the manner hereinafter prescribed to compel the appearance before him of

persons whom he suspects to have committed any such offence.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Magistrate to take cognizance of a case without complaint, when the offence falls under chapters XIX, XX or XXI of the Indian Penal Code; nor to entertain a complaint, or to take cognizance without complaint, of an offence, without sanction, where such offence, by any law in force, may not be entertained without sanction.

Commitment to High Court.

30. A Magistrate may commit any person to the High Court for any offence triable by such Court.

Magistrate to examine complainant.

31. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made to a Magistrate, such Magistrate, if he is competent to receive such complaint, shall examine the complainant. Such examination may be on oath or affirmation or not, as the Magistrate in each case thinks fit; but

Effect of omission.

where the complaint has been made by petition, and the Magistrate neglects to examine the complainant,

the trial of the person accused shall not be set aside on this ground.

Provided that the Magistrate, if he thinks fit, may require an information in writing to be laid in every case in which it seems to him to be expedient before the matter of the complaint or charge is brought before him.

Dismissal of complaint.

32. The Magistrate before whom such complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

When summons may issue.

33. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate as may then be there, to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

Where warrant or summons may issue on complaint.

34. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months,

or any offence triable exclusively by the High Court, or which in the opinion of such Magistrate ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

Warrant to arrest, if summons not obeyed.

35. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

36. In cases, of whatever nature, in which the Magistrate thinks fit to issue a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf.

But it shall be in the discretion of such Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

CHAPTER VI.

OF THE SUMMONS.

Form of summons.

37. Every summons issued by a Magistrate to an accused person shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

Fees for summonses and warrants.

38. For every summons or warrant issued by a Magistrate there shall be paid a fee of eight annas, and for every summons to attend and produce documents there shall be paid a fee of four annas.

Power to remit fees.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the party complaining is unable to pay the same, or if the complaint is made by a public servant in the execution of his duty.

Summons how served.

39. The summons shall be served on the accused personally, in any district where he may be, by delivering or tendering the summons to him; or, in case the accused person cannot be found, the summons may be left for him with some adult male member or servant of his family residing with him, and the person summoned, or the person with whom the summons is left, shall, if required by the serving officer, sign a receipt therefor.

Service when accused cannot be found.

40. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving officer shall fix the summons on some conspicuous part of the house in which the accused person ordinarily resides.

41. A Magistrate may, notwithstanding the issue of such summons, either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Issue of warrant in addition to summons.

42. A Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence known or suspected to have been committed by such person in a different district, or on the high seas, or in a foreign country, and for which, if committed within such local limits, he might issue a summons or warrant.

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

43. When a summons is to be served at any place outside the Presidency town, the Magistrate may send the summons in duplicate to the local Magistrate of the place where the accused shall reside or be to be there served.

Service of summons at distant places.

44. When service of summons is effected at such distance as aforesaid, and also in cases where the person who shall have served the same shall not be present at the hearing of the complaint, the service may be proved by a solemn declaration, purporting to be made before a Magistrate, which declaration may be endorsed on the duplicate summons and returned to the Court whence the process issued, or by a copy of the summons countersigned by the person to whom it is addressed, or by a receipt under section 39.

Proof of service in such cases and when server not present.

45. The provisions relating to a summons, its issue and service, contained in sections 37 to 44 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed.; and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER VII.

OF THE WARRANT.

46. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form of warrant.

A warrant issued under this Act remains in force until the person arrested is brought into the presence of the Magistrate who issued it or some other Magistrate of the town in which it was issued and so long as he remains before such Magistrate. If the person arrested is to be remanded to custody, an order must be made under section 68 or a warrant issued under section 104.

Force of warrant of arrest.

47. It shall be in the discretion of a Magistrate, in issuing a warrant for the arrest of any person, to direct by endorsement on the warrant that, if such person be willing and ready to give bail, in a sum to be fixed by the Magistrate, for his appearance before the Magistrate on a specified day (which sum and day shall be named in such endorsement) to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

Magistrate may direct bail to be taken.

If bail is given, the officer shall forward the bail-bond to the Magistrate.

Bail-bond to be forwarded.

48. A warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police-officer be immediately available, direct it to any other person.

Warrants to whom directed.

49. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

50. A warrant directed to a Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom the warrant is directed or endorsed.

Execution of warrant by Police-officer other than the one addressed.

51. The Magistrate by whom a warrant of arrest is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

Any Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he is competent to issue a warrant.

Arrest in presence of Magistrate.

52. A warrant issued by a Magistrate shall ordinarily be executed in the district in which it was issued.

Where warrant may be executed.

But if the person against whom the warrant is issued escapes, goes into, or is, in any place out of the district in which the warrant was issued, the warrant may be executed in such place.

53. A Magistrate may direct a warrant to be executed outside his local jurisdiction, either after endorsement by a Magistrate within whose local jurisdiction it is to be executed, or without such endorsement.

Execution of warrant outside issuing Magistrate's jurisdiction.

If the warrant is to be so endorsed, it may be sent by post to the Magistrate within whose local jurisdiction it is to be executed and by whom it is to be endorsed.

If the warrant is not to be endorsed, it shall be entrusted to a Police-officer, to be taken, either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, in whose local jurisdiction the warrant is to be executed.

54. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Magistrate

Procedure on execution of warrant outside issuer's jurisdiction.

who issued the warrant be within twenty miles or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 47, be carried before the Magistrate in whose local jurisdiction the arrest was made.

55. A Magistrate or Police-officer to whom a warrant is directed for execution shall execute the same, or cause it to be executed, and any Magistrate before whom a person is brought under the provisions of section 54 shall, if the person arrested appears to be the person intended by the Magistrate who issued the warrant, direct his removal in custody to the Magistrate who issued the warrant,

Procedure by Magistrate before whom person is brought on arrest under warrant from other jurisdiction.

or, if the offence be bailable, and the person arrested be ready and willing to give bail, shall take bail for his appearance before the Magistrate who issued the warrant, and the recognizance or bail-bond shall be forwarded to such Magistrate.

56. If any person accused of an offence not coming within section 33 absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate having jurisdiction shall, if he thinks, whether after taking evidence or not, that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

Proclamation for person absconding.

Such proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly made shall be conclusive evidence of due compliance with the law.

57. Such Magistrate may order the attachment of any property, moveable or immoveable, or both, belonging to the person so absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without the jurisdiction of such Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate having jurisdiction; or by the appointment of a manager and receiver; or by an order prohibiting the payment of rent to the absent person, as such Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner.

58. When any person whose property has come under the disposal of Government under section 57 appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Magistrate, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

Restoration of forfeited property.

59. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of section 42, in respect of an offence known or suspected to have been committed in another district or division of a district, the Magistrate who issued the warrant shall, unless he is authorized to complete the inquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or shall take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

CHAPTER VIII.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

60. A Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor, but no person shall be entitled to do so without permission. Any person permitted to prosecute may conduct the prosecution personally or by counsel.

Permission to conduct prosecution.

61. Every person accused before a Magistrate of an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the law in force for the time being relating to pleaders.

Right of accused to be defended.

Any such person may, with the permission of the Court (but not otherwise), employ any mukhtár or other person, not being a barrister, attorney or pleader, to assist him in his defence.

If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as to it seems fit.

Where accused person does not understand proceedings.

62. The place in which the Court of a Magistrate is held for the trial of any offence, or for the purpose of conducting an inquiry into any case triable by a High Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

Criminal Courts to be open.

But the Magistrate may, if he thinks fit, order that, during the inquiry into or trial of any particular case, no person shall have access to, or be, or remain in, the room or building used by the Court, without the consent or permission of the Court.

63. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Compounding offences.

CHAPTER IX.

OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

64. Cases, triable exclusively by a High Court in the exercise of its ordinary original criminal jurisdiction or which in the opinion of a Magistrate ought to be tried by such Court, shall be inquired into by a Magistrate, and in such inquiry he shall adopt the following procedure.

Procedure in preliminary inquiries.

65. When the accused person appears or is brought before the Magistrate, or, if his personal attendance is dispensed with, when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Examination of complainant and witnesses for prosecution.

Such evidence shall be taken in the manner described in clauses 2, 3 and 4 of section 75.

66. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent, when his personal attendance is dispensed with and he appears by agent.

Examination to be in presence of accused.

The accused person or his agent shall be permitted to examine and re-examine his own witnesses, and to cross-examine the complainant and his witnesses.

Accused may cross-examine.

67. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

Power of Magistrate to summon and examine any person.

68. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time adjourn the inquiry and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days.

Adjournment of inquiry and remand.

During the time that the accused person is so remanded, the Magistrate shall deal with him in accordance with the provisions of chapter XVII.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable ground for a remand.

69. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed accordingly.

When accused person to be discharged.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

70. When evidence has been given before a Magistrate, which appears to justify him in sending the accused person to take his trial for an offence which is triable exclusively by the High Court, or which, in the opinion of the Magistrate, is one which ought to be tried by such Court, the accused person shall be sent for trial by such Magistrate before the High Court.

When accused to be committed for trial.

71. When the Magistrate determines to send the accused person before the High Court for trial, he shall, after the evidence for the prosecution has been recorded, make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge.

Framing of charge on which accused is to be tried.

Such instrument, the record of the original enquiry, and any weapon or other article of property necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Charge, &c., to be forwarded to High Court.

72. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy thereof shall be furnished to him, if he so require.

Charge to be explained, and copy furnished, to accused.

73. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he wishes to be summoned to give evidence on his trial before the High Court.

List of witnesses for defence on trial.

The Magistrate may, if he thinks proper, summon the persons so named to attend and give evidence at the enquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time.

Further list.

CHAPTER X.

OF THE TRIAL OF CASES BY MAGISTRATES.

74. The following procedure shall be observed in the trial of cases by Magistrates under this Act.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,

(*b*) the date of the commission of the offence,

(*c*) the name of the complainant,

(*d*) the name of the accused person,

(*e*) the offence complained of or proved,

(*f*) the prisoner's plea,

(*g*) the final order,

(*h*) the date of such order.

75. The Magistrate need not record the evidence of the witnesses in any case tried by him under this Act.

Record of evidence.

But if he think fit to record such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of a narrative, but the Magistrate may in his discretion take down or cause to be taken down any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

76. No formal charge need at any time be made against the accused person, and neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. The Magistrate may convict the accused person of any offence he is competent to try, and which, from the facts proved, the accused person appears to have committed, whatever may be the nature of the complaint or process. If a formal charge be made it shall be drawn up in accordance with the provisions contained in chapter XX.

Object and effect of complaint.

77. No defect in the complaint or process shall affect the validity of the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

78. If, upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant or otherwise, the Magistrate shall deal with him in accordance with chapter XVII.

Accused person may be admitted to bail or allowed to be at large on his personal recognizance.

79. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Dismissal or adjournment on non-appearance of complainant.

80. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

81. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

82. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear, the Magistrate may dismiss the complaint.

83. In every case in which any person is given in charge to any Police-officer, or in which any information or complaint of any offence is laid or made before any Magistrate and is not further prosecuted, or in which, if further prosecuted, it appears to the Magistrate by whom the case is heard that there was no sufficient ground for making the charge, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate seems meet.

Compensation to person informed or complained against.

In such cases, if more persons than one are accused in the complaint, the Magistrate may, in like manner, award compensation not exceeding fifty rupees to each of them.

All compensation awarded under this section may be recovered as if it were a fine.

84. If a complainant, at any time before a final order is passed in any case, satisfies the Magistrate that there are sufficient grounds

Withdrawal of complaint.

for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it.

A complaint withdrawn under this section shall not again be entertained.

85. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him, and, in cases appealable under this Act, shall record a brief statement of the reasons for the conviction, together with the substance of the evidence on which the conviction was had, unless he has already recorded the evidence itself in the manner described in section 75.

Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of such accused person's agent, if he has been permitted to appear by agent; or the accused person may be required to attend to hear such sentence.

86. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or one which, in the opinion of such Magistrate, ought to be tried by the High Court, the Magistrate shall stop further proceedings under this chapter, and shall, either submit the case to the Magistrate having jurisdiction, or commit the accused person to the High Court in accordance with the provisions contained in chapter IX.

How the Magistrate is to proceed when, after commencement of trial, he finds the case beyond his jurisdiction.

87. In all cases not of a criminal nature, if no sufficient cause be shown for the non-appearance of the person against whom complaint has been made, the Magistrate upon proof of the service of the summons, may proceed to hear and determine the case in his absence, or may, if he think fit, issue his warrant for apprehending and bringing the said person before him or some other Magistrate.

Procedure in cases not of a criminal nature.

Provided that the prosecution in any such case shall be commenced within three months after the commission of the offence.

CHAPTER XI.

APPEALS.

88. The Local Government may direct an appeal by the Public Prosecutor or other officer specially or generally appointed in this behalf, from a Magistrate's order of acquittal, or of dismissal, or of leave to withdraw operating as an acquittal; but in no other case shall there be an appeal from a judgment or order.

No appeal in case of acquittal, except on behalf of Government.

Such appeal shall lie to the High Court. No appeal shall be presented under this section after six months from the date of the order complained of.

The High Court may, in any case so appealed, direct a new trial by another Court, or may pass such order as may be warranted by law.

89. Any person convicted on a trial held by a Magistrate, may appeal to the High Court if the sentence complained of involves imprisonment for a term exceeding one year or a fine exceeding five hundred rupees:

Appeal.

Provided that, where an accused person has been convicted on his own plea, no appeal shall lie except as to the extent or legality of the sentence.

For the purposes of the Indian Limitation Act, all appeals under this Act and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

90. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copy of judgment to accompany petition.

91. If any person affected by a sentence or other order passed by a Court under this Act desires to have a copy of any proceeding, he shall, on applying for such copy, be furnished therewith provided that he pay for the same, unless the Court, for some special reason, sees fit to furnish it free of cost.

Copies of proceedings.

92. If the party appealing be in jail, he shall be at liberty to present his petition of appeal, and the copy of the judgment or order appealed against, to the officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Procedure when appellant in jail.

93. The High Court shall fix a reasonable time within which the appellant or his counsel or authorized agent may appear, and it may reject the appeal if, on a perusal of the petition of appeal and the copy of the judgment or order appealed against, and after hearing the appellant or his Counsel or authorized agent, if he appears, it considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Rejection of appeal.

Before rejecting the appeal, the Court may call for and peruse all or any part of the proceedings of the Magistrate, but shall not be bound to do so.

In rejecting an appeal under this section, the High Court shall not enhance the sentence.

94. If the High Court decide to hear the appeal, it shall cause notice to be given to the appellant and shall also give notice to the Magistrate whose judgment or order has been appealed against, who shall inform, if necessary, the public prosecutor, Government pleader, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard,

Notice of appeal.

and in cases under section 88, where the High Court decides to hear the appeal, it shall also cause notice to be given to the respondent.

95. The High Court, after perusing the proceedings of the Magistrate, and after hearing the appellant, his counsel or agent, if they appear, and the public prosecutor, Government pleader or other officer empowered by Government or by the Magistrate in that behalf, if he appears, may alter or reverse the finding and sentence or order of such Court, and may, if it see reason to do so, enhance any punishment that has been awarded or order the appellant to be re-tried before any Magistrate or before the High Court.

High Court may alter or reverse finding and sentence, or enhance sentence.

Provided that the High Court shall not inflict a greater punishment than is prescribed for the offence by the Indian Penal Code.

96. In any case in which an appeal is allowed, the High Court may, pending the appeal, order that the sentence be suspended, and, if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

Suspension of sentence pending appeal.
Release of appellant on bail.

The period during which the sentence is suspended shall be omitted in reckoning the completion of the punishment.

97. In any case in which an appeal has been allowed, the High Court, if it thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant, to be necessary, may either make such further inquiry and take such additional evidence itself, or may direct such inquiry to be made and additional evidence to be taken by a Magistrate.

High Court may make or direct further inquiry.

If the High Court takes further evidence and passes judgment and sentence, no fresh right of appeal arises in respect of such sentence.

When the evidence has not been taken before itself, the result of the further inquiry and the additional evidence shall be certified to the High Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the presence of the appellant may be dispensed with when the further inquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

98. No order passed by a Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings on or before trial, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the prisoner in his defence.

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

No irregularity in the proceedings up to trial is a sufficient ground for reversing any judgment, sentence or order made or passed in a trial properly held.

99. In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the High Court, is proved by the evidence, the High Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

High Court may reduce punishment.

100. When a Magistrate has convicted a person of an offence not triable by such Magistrate, the High Court shall annul the conviction and sentence of such Magistrate, and direct the trial of the case by a Court of competent jurisdiction.

Procedure in case of conviction by Court not having jurisdiction.

101. No appeal shall lie from any order of a Magistrate, except in the cases provided for by this Act or by any law for the time being in force.

Unless otherwise provided, no appeal to lie from order of Magistrate.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, or to grant an enhanced award.

(*b.*) There is no appeal against an order of a competent Magistrate dismissing a complaint.

(*c.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*d.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*e.*) There is no appeal against an order of maintenance.

(*f.*) There is no appeal against the order of a competent Court refusing to order a commitment.

(*g.*) There is no appeal against an interlocutory order, such as a claim to appear by agent.

102. When an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the party making such application shall give notice to the Magistrate, to whose decision such application relates, seven days at least before such application is made, and shall at the same time furnish such Magistrate with a copy of the grounds on which such application is to be made.

Notice to Magistrate concerned, of intention to make application under Act X of 1875, s. 147.

103. When the decision of any Magistrate is called in question in the High Court by any process issued on an *ex parte* application, the Magistrate may submit with the record a statement setting forth the grounds of his decision and any facts he may consider material to the issue; and this statement the Court shall consider before determining the matter so as to overrule or set aside the decision or acts of the Magistrate to which the application relates, and notwithstanding that no Counsel appear on behalf of the Magistrate.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

CHAPTER XII.

EXECUTION.

104. In cases tried by a Magistrate, the Court passing the sentence shall forward the accused person with a warrant for the execution of the sentence, to the officer in charge of the jail of the Presidency town in which the trial was held,

Court to send accused, with warrant for execution of sentence to officer in charge of jail.

or where there are more such jails than one, to such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, and the period during which he is to be imprisoned, and the nature of the imprisonment or other punishment:

Sentence of whipping.

105. Where the accused person is sentenced to whipping, the sentence may be executed at such place and time as the Court may direct.

Form and direction of warrant of commitment.

106. Every warrant for the commitment of a person to custody shall be in writing, and signed and sealed by the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (C or D, as the case may be) given in the third schedule to this Act or to the like effect.

Levy of fine.

107. Whenever an offender is sentenced to pay a fine, the Magistrate may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Magistrate, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Section to what cases applicable.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Detention of offender until return made to distress-warrant.

When a warrant of distress is issued, the Magistrate may order the offender to be detained in custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance; but if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress.

Distress not illegal nor distrainer a trespasser for defect of form in proceedings.

No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto; nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Who may issue warrant.

The warrant may be issued either by the Magistrate who passes the sentence or by his successor in office.

Payment of fine in compensation.

108. Whenever a Magistrate imposes a fine under any law in force for the time being, the Magistrate may order the whole or any part of the fine to be paid in compensation,

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the offence complained of, where such offence can, in the opinion of the Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded in a case which is subject to appeal, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

Imprisonment in default of payment of fine.

109. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by Magistrate.

Provided that, in no case decided by a Magistrate, where imprisonment has been awarded as part of the substantive sentence, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Magistrate may award such term of imprisonment in default of payment of fine as is allowed by law, provided the amount does not exceed the Magistrate's powers under this Act.

Whipping, if awarded in addition to imprisonment, when to be inflicted.

110. When the punishment of whipping is awarded, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Mode of inflicting punishment.

111. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of the officer in charge of the jail.

Punishment not to be inflicted if offender not in fit state of health.

112. No sentence of whipping shall be carried into execution unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo the punishment.

Stay of execution.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

Not to be executed by instalments.

No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under section 112.

113. In any case in which, under section 112, a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either order the discharge of such offender, or sentence him, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not carried out, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to award.

Sentence in cases of simultaneous conviction of several offences.

114. When a person is convicted, at one trial, of two or more offences punishable under the same or different sections of any law for the time being in force, the Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other.

It shall not be necessary for the Magistrate, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before the High Court:

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

Trial of previously convicted persons.

115. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate considers him an habitual offender, be committed to the High Court.

Currency of sentence on escaped convicts.

116. When sentence is passed on an escaped convict, for such escape or for any other offence, the Magistrate may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period, equal to that which remained unexpired of his former sentence at the time of his escape.

Commencement of sentence on offender already sentenced for other offence.

117. When sentence is passed on a person already under sentence of imprisonment or transportation, and the sentence is for imprisonment, the Magistrate shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced:

Proviso.

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

Evidence of medical witness.

118. The examination of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any criminal trial, although the person examined is not called as a witness.

Court may summon medical witness.

The Court may summon such civil surgeon or other medical witness, if it sees sufficient cause for doing so.

Report of chemical examiner.

119. Any document purporting to be a report from the chemical examiner, or assistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Genuineness of signature may be presumed.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Previous conviction or acquittal how proved.

120. Where a previous conviction or acquittal is to be proved against an accused person, application shall be made to the officer in whose custody the records of such trial may be.

It shall not be necessary to produce the record of the conviction or acquittal of such accused person, or a copy thereof, but an extract may be produced

in proof of such conviction or acquittal, if certified, under the hand of the clerk of the Court or other officer having the custody of the records of the Court in which such conviction or acquittal was had, or by the deputy of such clerk or officer, to be a copy of the charge, finding and sentence, as the case may be.

Record of evidence in absence of accused.

121. If an accused person abscond, and after due pursuit cannot be arrested, any Court competent to try or to commit such accused person for trial for the offence complained of may, in his absence, record the statements of the persons acquainted with the facts; and such depositions may, on the arrest of such person, be put in on his trial for such offence, if it is not practicable to procure the attendance of such witnesses.

Convictions on evidence partly recorded by one Magistrate and partly by another.

122. Whenever any Magistrate, after having heard part of the evidence in a case, ceases to exercise jurisdiction in such case, and is succeeded by another Magistrate who has and who exercises jurisdiction in such case, such last-named Magistrate may decide the case on the evidence partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and commence afresh:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses shall be re-summoned and re-heard, in which case the trial shall be commenced afresh:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new trial.

Continuation of proceedings not completed by Magistrate commencing inquiry.

123. Whenever, from any cause, a Magistrate making an inquiry under this Act is unable to complete the proceedings himself, any other Magistrate having jurisdiction to inquire and to commit may complete the case and proceed as if he had recorded all the evidence himself.

When personal attendance of witness may be dispensed with.

124. Whenever in the course of a trial before a Magistrate it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate may dispense with the personal attendance of such witness.

Such Magistrate may direct a commission to the Magistrate of the District, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to take the evidence of such witness as directed in section 330 of the Code of Criminal Procedure.

Issue of commission and procedure thereunder.

If the witness is within the local limits of the ordinary original criminal jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, the Court dispensing with his personal attendance may direct a commission to any Magistrate within such limits, and such Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him.

Commission in case of witness being within jurisdiction of a High Court.

The prosecutor and the accused person may forward interrogatories, upon which the officer to whom the commission is directed shall examine the witness, or the prosecutor may appear personally before the Magistrate to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

Prosecutor and accused may examine witness.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

CHAPTER XIV.

OF THE EXAMINATION OF ACCUSED PERSONS.

Examination of accused.

125. In all inquiries and trials under this Act, the Magistrate may from time to time, at any stage of the inquiry or trial and without previously warning the accused person, examine him, and put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in the case under inquiry, but also in trials for any other offences which his replies may tend to show he has committed.

Examination of accused how recorded.

126. Whenever an accused person is examined in the course of a preliminary enquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

No influence to be used to induce disclosures.

127. Except as is provided in section 128, no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Magistrate may tender pardon to accomplice.

128. A Magistrate may, after recording his reason for so doing, tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case, under the rules applicable to the examination witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

When Magistrate or High Court may direct commitment of person to whom pardon has been tendered.

129. When a pardon has been tendered under section 128, if it appears to the Magistrate before the trial, or to the High Court, that any person who has accepted such offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence, such Magistrate or Court may commit, or direct the commitment of, such person, for trial for the offence in respect of which the pardon was so tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

CHAPTER XV.

OF SECURING THE ATTENDANCE OF WITNESSES.

Power to summon material witness or examine person present.

130. Any Magistrate may, at any stage of any proceeding, inquiry or trial, summon, in the manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness, and it shall be the Magistrate's duty to do so if the evidence of such person appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

131. If a Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Procedure when warrant cannot be served.

132. If such warrant cannot be executed, and the Magistrate considers that the witness absconds or conceals himself for the purpose of avoiding the service thereof, he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of such witness' ordinary place of abode, or if he has no such abode, of the Court of the Magistrate.

If the witness does not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness, to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall authorize the attachment of any moveable property within the jurisdiction of the Magistrate by whom it was made; and it shall authorize the attachment of any moveable property without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Release of attached property of witness appearing and satisfying Magistrate.

133. If the witness appears and satisfies such Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as to such Magistrate seems fit.

Sale of property of witness not appearing or not satisfying Magistrate.

If such witness does not appear, or, appearing, fails to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of section 172 of the Indian Penal Code.

If the witness pays to such Magistrate the costs and fine as aforesaid, his property shall be released from attachment.

Power to order prisoner in jail to be brought up for examination.

134. When any Magistrate is desirous of examining any prisoner confined in any civil or criminal jail as a witness or accused person in any case pending before him, it shall be lawful for such Magistrate to issue an order to the officer in charge of the said jail, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Court, for examination; and the officer in charge of the said jail, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

Arrest of person disobeying summons.

135. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal to bring such person before him to testify as aforesaid.

Committal of person refusing to answer.

136. If any witness summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 177 or 178.

Inquiries.

137. In inquiries preliminary to commitment under this Act to a High Court, the Magistrate making the inquiry shall summon the witnesses for the prosecution to appear before him, and shall take their evidence against the accused person. The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Procedure in inquiries preliminary to commitment.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person.

Power to summon supplementary witnesses.

138. In such inquiries, when the person accused is to be committed for trial, and has given in any list of witnesses mentioned in section 73, the Magistrate may either summon the witnesses to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Summons to witnesses when accused person is to be committed.

139. Prosecutors and witnesses for the prosecution and defence, whose attendance is necessary before the High Court, and who appear before the Magistrate, shall execute before him recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Recognizances of prosecutors and witnesses.

If any prosecutor or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him under custody to the High Court.

Detention in custody in case of refusal to attend or to execute recognizance.

Witnesses.

140. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

In cases tried upon summons.

Ordinarily it shall be the duty of the complainant and accused to produce their own witnesses.

In such cases, it shall be in the discretion of the Magistrate to summon any witnesses named by the complainant or the accused; and he may require, in such cases, a deposit of the expenses of a witness before summoning him.

141. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall summon such of them to give evidence before him as he thinks necessary.

In cases tried upon warrant.

The Magistrate shall also, subject to the provisions of section 137, summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for that purpose, at his discretion, adjourn the trial from time to time.

Of Securing Documentary Evidence.

142. Whenever a Magistrate considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, such Magistrate may issue a summons to the party in whose keeping such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

Procedure for obtaining production of document required as evidence.

143. If there appears reason to believe that the person to whom the summons is addressed will not produce it as directed in the summons, such Magistrate may issue a search-warrant for the document in the first instance.

When warrant for search for documents may issue.

144. Any Magistrate may, if he thinks fit, impound any document produced before him, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

Power to impound document produced.

CHAPTER XVI.

OF SEARCH-WARRANTS.

145. When a Magistrate considers that the production of anything is essential to the conduct of an inquiry into an offence known or suspected to have been committed, or to the discovery of the offender,

Search-warrant when grantable.

or when he considers that such inquiry or discovery will be furthered by the search or inspection of any place,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the jurisdiction of the Magistrate.

The Magistrate issuing such warrant may, if he see fit, specify in his warrant the place or part to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place or part so specified.

146. If any letter in the custody of the Postal Department is wanted for the purpose of any criminal proceeding, a Magistrate may, if he thinks fit, direct the postal authorities to deliver up any such letter.

Procedure as to letter in custody of Postal Department.

147. A search-warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing the warrant may, if immediate search is necessary and no Police-officer be immediately available, direct it to any other person.

Direction of search-warrant.

148. A search-warrant directed or endorsed to a Police-officer may, if he is not able to proceed in person, be executed by any other Police-officer.

Warrant to Police-officer may be executed by his subordinate.

In such case the name of such Police-officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

Endorsement.

149. When it is necessary for a search-warrant to be executed out of the Presidency town in which it was issued, any Magistrate within whose local jurisdiction the warrant is to be executed shall endorse his name thereon.

Execution of search-warrant out of district in which issued.

Such endorsement shall be sufficient authority for the Police-officer charged with the execution of the warrant to execute the same within the said jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose local jurisdiction the search is to be made; and he shall thereupon endorse his name on such warrant, and enforce its execution in the same manner as if it had been issued by himself.

150. Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose district the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the Police-officer charged with the execution of the warrant may execute the same, in any place beyond the district in which it was issued, without the endorsement of the Magistrate in whose local jurisdiction that place is situate.

Search-warrants may, in emergency, be executed without endorsement.

If the thing for which search is made is found in such place, it shall, when the place where the thing is found is nearer to the Magistrate having jurisdiction in such place than to the Magistrate who issued the warrant, be immediately taken before the Magistrate in whose local jurisdiction it is found; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Thing found to be taken to Magistrate within whose jurisdiction it is found.

Order thereon.

If the thing be not found after such search, the Police-officer making the same shall, in addition to the return made to the Magistrate who issued the warrant, report the fact to the Magistrate in whose local jurisdiction the search was made.

151. Whenever it appears necessary, a Magistrate may, by his warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

Magistrate may issue search-warrant to be executed in place out of his jurisdiction.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose local jurisdiction the place to be searched is situate.

152. A Magistrate issuing a search-wararnt to be executed in any place out of the jurisdiction of the Magistrate, may direct the warrant to any Magistrate within whose local jurisdiction such place is situate, and may send the same by post.

Magistrate may send search-warrant by post to Magistrate having jurisdiction.

On receipt of such warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

Endorsement and execution by such Magistrate.

In such case, any property found on search made may be dealt with as provided in section 150.

153. If the Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

Search of house suspected to contain stolen property or forged documents.

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid.

And if upon search thereupon made, such property, documents, stamps, seals, coins, instruments or materials be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate or otherwise dispose thereof in some place of safety; and moreover to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen, or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

154. The Magistrate by whom a search-warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may attend personally.

The Magistrate may also direct a search to be made in his presence, of any place for the search of which he is competent to issue a search-warrant.

Magistrate may direct search in his presence.

CHAPTER XVII.

BAIL.

155. When any person appears or is brought before a Magistrate accused of any bailable offence, he shall be admitted to bail.

When bail shall be taken.

156. When any person accused of any non-bailable offence appears or is brought before a Magistrate such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail not to be taken.

If the evidence given in support of the accusation is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

157. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused, and one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue to attend until otherwise directed by the Court, and, if required, shall appear when called upon at the High Court, to answer the charge.

Recognizance of accused and sureties.

158. If, through mistake or fraud, insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to give sufficient bail or to find sufficient sureties, and, in default, may be committed to prison.

Power to order sufficient bail when that first taken is insufficient.

159. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Admission to bail found after failure in first instance.

160. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some prison or other place of confinement, shall issue a warrant of release to the jailor or other person having him in his custody, and such jailor or other person shall thereupon release him.

Discharge on bail.

161. Any one or more of the sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

Discharge of sureties.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

162. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within the jurisdiction of the Magistrate, and it shall authorize the distress and sale of any moveable property belonging to the accused person, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate within whose jurisdiction such moveable property is situated.

163. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid and if no sufficient cause for its non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within the jurisdiction of the Magistrate. Such warrant may be executed within the jurisdiction of the Magistrate; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate within whose jurisdiction such moveable property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the civil jail, during a period not exceeding six months.

164. The powers given by sections 162 and 163 may be exercised by every Magistrate in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court, according to the conditions of such recognizance or bail:

In what cases powers given by sections 162 and 163 may be exercised.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in the recognizance of the party or witness, or of the surety or sureties, and enforce payment in part only.

Remission of part of penalty.

165. When any person is required by any Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

Deposit instead of bail.

CHAPTER XVIII.

LUNATICS.

166. When any person charged with an offence before a Magistrate appears to such Magistrate to be of unsound mind and incapable of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the civil surgeon of the district, or some other medical officer, and thereupon shall examine such civil surgeon or other medical officer as a witness, and shall reduce the examination into writing.

Procedure in case of accused being lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

167. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the High Court, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, such accused person shall, if he appears to be sane at the time of inquiry, be sent for trial by the Magistrate before the High Court.

When accused appears to have been insane.

If an accused person appears to be insane at the time of inquiry, the Magistrate shall act in the manner provided in the last preceding section.

168. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

Release of lunatic on security given.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

Custody when bail not given.

169. Whenever an inquiry or trial is postponed under section 166, the Magistrate may at any time resume the inquiry or trial, and require the accused person, if detained in custody, to be brought before such Magistrate; or, if the accused person has been released on security, may require his appearance.

Resumption of inquiry or trial.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Magistrate appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector-General of Prisons or the visitors of lunatic asylums, granted under section 174.

170. If, when the accused person appears or is again brought before the Magistrate, it appears to such Magistrate that the accused person is in a fit state of mind to make his defence, the inquiry shall proceed, or the accused person shall be put on his trial, as the case may require.

Procedure on accused appearing before Magistrate.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate shall again act according to the provisions of section 166.

171. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

Finding in case of acquittal on ground of being lunatic.

172. Whenever such finding states that the accused person committed the act charged, the Magistrate before whom the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Person found to have committed act charged to be kept in safe custody and report made to Government.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

173. When any person is confined under the provisions of section 168 or 172, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

174. If such person is confined under section 168, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 170; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

175. If such person is confined under the provisions of section 172, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 172 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as to it may seem fit.

Delivery of lunatic to care of relative.

176. Whenever any relative or friend of any person detained under the provisions of section 172 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that such person may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 173 and 175 shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XIX.

CONTEMPTS OF COURT.

Procedure in certain cases of contempt.

177. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of any Magistrate, the Magistrate may cause the offender to be detained in custody; and, at any time before the rising of the Magistrate on the same day, may take cognizance of the offence, and adjudge the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case, the Magistrate shall record the facts constituting the offence, with any statement the offender may make, as well as 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 Magistrate insulted or interrupted was sitting, and the nature of the interruption or insult offered.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

178. If the Magistrate in any case considers that a person accused of any such offence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate after recording the facts constituting the offence, and the statement of the accused person as before provided, shall forward the case to another Magistrate, and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or, if sufficient bail be not tendered, shall cause such person to be forwarded under custody to such Magistrate.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate; and may adjudge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

Any person convicted under this section may appeal to the High Court.

Discharge of offender on submission or apology.

179. When any Magistrate has adjudged an offender to punishment, or forwarded him to another 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 former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

CHAPTER XX.

OF THE CHARGE.

Form of Charges.

Charge to state offence.

180. The charge shall state the offence with which the accused person is charged.

Specific name of offence, sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the prisoner notice of the matter with which he is charged.

The Act and section or sections of the Act against which the offence is said to have been committed must be referred to in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the prisoner, the charge must be read to him in a language which he understands.

Previous conviction to be set out in charge.

If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting: this is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

181. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

182. When the nature of the case is such that the particulars mentioned in sections 180 and 181 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

183. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

184. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 182, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

185. Any accused person may apply to the Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.

Court may amend a charge.

186. The Court may, upon the application of the accused person, or of the prosecutor, or upon its own motion, amend or alter any charge at any stage of the proceedings before judgment is pronounced. Such amendment shall be read and explained to the accused person.

When trial may proceed immediately after amendment.

187. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When new trial may be directed or trial suspended.

188. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to

the case, or whom the accused person may wish to be summoned in his defence.

Prosecutor and accused person may recall witnesses.

189. In all cases of amendment or alteration of a charge, the prosecutor and accused person shall be allowed to recall and examine with reference to such amendment or alteration any witness who may have been examined.

Previous sanction to be obtained if offence in new charge require it.

190. If the offence stated in the new charge be one for which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the new charge was based.

Joinder of Charges.

Separate charges for distinct offences.

191. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

192. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

EXPLANATION.—Offences are said to be of the same kind under this section if they fall within the provisions of section 194.

I.—Trial of more than one offence.

193. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed, but he must not receive a more severe punishment than could be awarded for any of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed, but he must not receive for such offences, collectively, a punishment more severe than that which might have been awarded for any one of such offences.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for, the possession of each seal for a distinct forgery under section 473 of the Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d.*) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 or 195 of the Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant engaged in suppressing the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g.*) A criminally intimidates B, C and D at the same time. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, three offences under section 302 of the Indian Penal Code.

To paragraph II.

(*i.*) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with, and convicted of, offences under sections 426 and 379 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 379 only.

(*j.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 323 only.

(*k.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 429 only.

(*l.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(*m.*) A uses a forged document in evidence, in order to convict B, a public servant, of an offence under section 167. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

To paragraph III.

(*n.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

(*o.*) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 392 or 394 only.

(*p.*) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

Where it is doubtful what offence has been committed.

194. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft, or criminal breach of trust, or cheating.

When a person is charged with one offence, he can be convicted of another.

195. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust, or receiving stolen goods. He may be convicted of criminal breach of trust, or receiving stolen goods, though he was not charged with it.

When offence proved included in offence charged.

196. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

What persons may be charged jointly.

197. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges, on conviction on one of several charges.

198. When more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government pleader or other officer conducting the prosecution may, with the consent of the Court, withdraw, or the Court of its own accord may suspend, the inquiry into the remaining charge or charges.

Previous Acquittals or Convictions.

Person once convicted or acquitted not to be tried for same offence.

199. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 194, or for which he might have been convicted under section 195.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 193, paragraph one.

A person acquitted or convicted of any offence in respect of any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence in respect of any facts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged, upon the same facts, either with theft as a servant, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged before the High Court and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(*f.*) A is charged by a Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three of this section.

(*g.*) A is charged by a Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*h.*) A, B and C are charged by a Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity, on the same facts.

CHAPTER XXI.

PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

200. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294 A of the same Code, shall not be entertained by any Magistrate, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution of Judges and public servants.

201. A complaint of an offence committed of which any Judge or any public servant not removeable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against him except with the sanction or under the direction of the Government, or of some officer empowered by the Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Government does not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the discharge of his duty, unless with the sanction of the Government.

Sanction when to be given.

The sanction must be given before the commencement of the proceedings.

Power of Local Government as to prosecution.

The Local Government may limit the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial is to be held.

In this section the expression "Government" means either the Local Government or the Governor General in Council and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

Prosecution for contempts of the lawful authority of public servants.

202. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179 or 180 of that Code, shall not be entertained by any Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

EXPLANATION.—In cases under this chapter, the report or application of the public servant shall be deemed sufficient complaint.

Sanction to prosecution for certain offences against public justice.

203. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be entertained by any Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

204. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be entertained against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Nature of sanction necessary.

205. The sanction referred to in sections 201, 202 and 203, may be expressed in general terms, and need not name the accused person and may be given at any time.

Such sanction may be given at any time, and a sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Magistrate to amend the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

EXPLANATION.—In cases under this chapter, the report or application of the public servant or Court shall be deemed sufficient complaint.

Procedure in cases mentioned in sections 201, 202 and 203.

206. When any Court, civil or criminal, is of opinion that there is sufficient ground for inquiring into any complaint mentioned in sections 201, 202 and 203, such Court, after making such preliminary inquiry as may be necessary, may either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Such Magistrate shall thereupon proceed according to law, and the Court may send the accused person in custody, or take sufficient bail for his

appearance, before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

Prosecution for adultery.

207. A complaint of an offence under section 497 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

Prosecution for enticing away married woman.

208. A complaint of an offence under section 498 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

CHAPTER XXII.

OF SECURITY FOR KEEPING THE PEACE.

Personal recognizance to keep the peace in cases of conviction.

209. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Magistrate,

and the Magistrate by whom such person is convicted, or the Magistrate by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

such Magistrate may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year, with a provision that, if the same be not given, the person required to enter into the engagement shall be kept in simple imprisonment for any time not exceeding one year, unless within such period such person execute such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence when he is released on the expiration of his sentence.

In any case where the order is not made at the time of signing, or by the Magistrate who signs, the judgment, the convict must be produced before the Magistrate who adds the order to enter into a personal recognizance to the original sentence.

Security to keep the peace.

210. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Magistrate may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding one year.

Summons to person to show cause why he should not give bond to keep peace.

211. Whenever a Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate thinks fit.

EXPLANATION I.—A summons calling on a person to show cause why he should not be bound over to keep the peace, may be issued on any report or other information which appears credible and which the Magistrate believes; but the Magistrate cannot bind over a person until he has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may recall a summons issued under this section if he thinks proper.

Contents of summons.

212. Such summons shall set forth the substance of the report or information on which it is issued, the amount of the bond, and the term for which it is to be in force, and, if security is called for, the number of sureties required, and the amount in which they are to be bound respectively, and the time and place at which the person summoned is required to attend.

EXPLANATION.—When the parties are present in Court no summons is necessary, but the person to whom a summons would have been issued must have an opportunity to show cause why he should not be bound.

Form and penalty of bond.

213. The bond shall be in the form (E) given in the third schedule hereto annexed or to the like effect; and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

The amount in which the sureties shall be bound shall not exceed the penalty named in the bond.

When warrant of arrest may issue.

214. If the person summoned does not attend at the time and place named in the summons on the day appointed, such Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate may at any time issue a warrant for his arrest.

Magistrate may dispense with personal attendance of person informed against.

215. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 211 and may permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of person informed against.

216. If on the appearance of such person informed against, or of his agent if he is permitted to appear by agent, the Magis-

trate is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate shall direct his discharge.

Order to give bond and consequence of non-compliance.

217. If the Magistrate is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if such person fails to comply with the order, the Magistrate may order him to be kept in simple imprisonment until he furnish the same.

Time for which person may be bound to keep peace.

218. The period for which the Magistrate may bind a person to keep the peace, with or without security, shall not exceed one year.

Limit of imprisonment under section 217.

When a person is imprisoned under section 217, he shall not be detained by authority of the Magistrate beyond the term of one year, and shall be released whenever, within that term, he complies with the order.

Extension of time for which person is bound.

219. Whenever it appears to a Magistrate that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend the term for a further period not exceeding one year.

If such person fails to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate under the orders of the High Court, directs, he may be kept in simple imprisonment for such further period, or until, within that period, he gives such bond.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 211.

Discharge of recognizances.

220. A Magistrate may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken by him, or by his predecessor, under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

221. A surety for the peaceable conduct of another person may at any time apply to a Magistrate to be relieved from his engagement as surety.

On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound may appear or be brought before him.

On the appearance of the person to such warrant, or on his voluntary surrender, the Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and, in default thereof, shall order him to be kept in simple imprisonment.

Recovery of penalty from principal.

222. Whenever it is proved before a Magistrate that any recognizance or other bond taken under this chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by such recognizance or bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any of the moveable property belonging to the person bound by such recognizance or bond.

Such warrant may be executed within the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person bound, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such person shall be liable to imprisonment by order of the Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person bound has had an opportunity of showing cause, and until the breach of the conditions has been proved.

The commission, or attempt to commit or abetment, of any offence whatever, and wherever it may be committed, is a breach of the bond.

Proceedings under this chapter may be taken, either in the district in which the breach of the peace is apprehended, or where an offence has been committed in breach of the bond, or in any district where the person it is desired to bind may be.

Recovery of penalty from surety.

223. Whenever it is proved before a Magistrate that any bond with a surety has been forfeited, the Magistrate may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

And in case such penalty cannot be so recovered, the surety shall be liable, by order of such Magistrate, to imprisonment in the civil jail for a period not exceeding six months.

CHAPTER XXIII.

OF SECURITY FOR GOOD BEHAVIOUR.

When Magistrate may require security for good behaviour for six months.

224. Whenever it appears to a Magistrate that any person is lurking within his jurisdiction, or that there is within his jurisdiction a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such security for such person's good behaviour for a period not exceeding six months as to him may appear good and sufficient.

Binding of sentenced person.

If in any case under this or the two following sections, the person to be bound is under sentence for an offence, he must be brought up on or after the expiration of his sentence for the purpose of being bound.

When Magistrate may require security for good behaviour for one year.

225. Whenever it appears to a Magistrate from the evidence as to general character adduced before him, that any person

is by repute a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood, or is a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

Procedure where security required for more than one year.

226. Whenever it appears to a Magistrate, from the evidence as to general character adduced before him, that any person

is by habit a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release without security, at the expiration of the limited period of one year, hazardous to the community,

he shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number, character and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour; and if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

Proceedings to be laid before High Court.

227. If a person required to furnish security under the provisions of the last preceding section does not furnish the same, or offers sureties whom the Magistrate sees fit to reject, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass orders on the case, either confirming, modifying or annulling the orders of such Magistrate, as it thinks proper.

High Court may require security for period not exceeding three years.

228. If the High Court does not think it safe to direct the immediate discharge of such person, it shall fix a period for his detention, not exceeding three years, in the event of his not giving the security required from him.

Contents of order for security.

229. Whenever security for good behaviour is required by the High Court or by a Magistrate the amount, the security, the number and description of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order.

Form of bond.

The security-bond shall be in the form (G) given in the third schedule hereto annexed or to the like effect.

Imprisonment in default of security.

230. In the event of any person required to give security under the provisions of this Act failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Term of imprisonment.

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment under this section may be rigorous or simple, as the Court or Magistrate in each case directs.

Release of prisoners under requisition of security.

231. The Magistrate may at any time exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order, or that of his predecessor in office, provided he is of opinion that such person can be released without hazard to the community.

Report in case of prisoner under requisition of security by order of High Court.

232. Whenever a Magistrate is of opinion that any person confined under requisition of security for good behaviour, by order of the High Court, can be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Discharge of surety.

233. A surety for the good behaviour of a person may at any time apply to a Magistrate to be relieved from his engagement as such surety.

On such application being made, such Magistrate shall issue his summons or warrant in order that such person may appear or be brought before him.

On the appearance of such person pursuant to such summons or warrant, or on his voluntary surrender, such Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and, in default thereof, shall commit him to custody.

Recovery of penalty from sureties.

234. Whenever a Magistrate is of opinion that, by reason of an offence proved to have been committed by a person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, such Magistrate shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

If such penalty be not paid and no sufficient cause for non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety by issuing a warrant for the attachment and sale of any moveable property belonging to him. Such warrant may be executed within the jurisdiction of the Magistrate by whom it is issued; and it shall authorize the distress and sale of any moveable property belonging to such surety, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment by order of a Magistrate of Police in the civil jail for a period not exceeding six months.

Issue of summons and warrant of arrest.

235. The provisions of sections 212 and 214, relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, when such party is not in custody, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

Place where proceedings may be held.

Proceedings may be taken under this chapter, against persons amenable to its provisions, in any district where they may be.

Previous convictions may be proved.

Any previous conviction against the person to be bound may be proved on proceedings held under this chapter.

Sureties may be rejected for unfitness.

236. A Magistrate may refuse to accept any surety offered under this chapter, on the ground that such surety is an unfit person.

Provisions of chapter not to apply to European British subjects.

237. The provisions of this chapter do not apply to European British subjects.

CHAPTER XXIV.

POSSESSION.

Power to restore possession of immoveable property.

238. Whenever any person is convicted by a Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XXV.

OF THE MAINTENANCE OF WIVES AND FAMILIES.

Order for maintenance of wives and children.

239. If any person, having sufficient means, neglects or refuses to maintain his wife, or legitimate or illegitimate child unable to maintain himself, a Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as to such Magistrate seems reasonable.

Such allowance shall be payable from the date of the order.

Enforcement of order.

If such person wilfully neglects to comply with this order, such Magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; and may order such person to be imprisoned, with or without hard labour, for any term not exceeding one month, for each month's allowance remaining unpaid:

Proviso.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by consent.

Alteration in allowance.

240. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 239, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit, provided the total sum of rupees fifty a month be not exceeded.

Enforcement of order.

241. A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person, and shall be enforceable by any Magistrate in any place where the person to whom the order is addressed may be, on the Magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed.

CHAPTER XXVI.

MISCELLANEOUS.

Procedure in miscellaneous criminal cases and proceedings.

242. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Police Court.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

243. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by Magistrates and may be tried according to the provisions of this Act.

Extent of jurisdiction.

244. The jurisdiction given to Magistrates under section 243 may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not; but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Magistrate before whom the offender is charged.

Power to award costs.

245. A Magistrate disposing of any complaint may award such costs as he thinks fit, to be paid to or by either of the parties, as he directs, and such costs shall be recoverable as if they were fines.

Reference to High Court.

246. A Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to prison or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

247. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit.

Direction as to costs.

A copy of the decision of the High Court, under the seal of the Court and the signature of the Registrar, shall be transmitted to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said decision, and shall also be empowered to direct by whom the costs of the reference shall be paid.

Order for disposal of property regarding which offence committed.

248. When the inquiry or trial before any Magistrate is concluded, he may make such order as appears right for the disposal of any property produced before him, regarding which any offence appears to have been committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Power to order restitution of property, or fine the offender.

249. Upon a conviction of any offence by means of or in consequence of which the possession of property has been transferred, the Magistrate may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner; and, in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same, a fine not exceeding the value of the said property, which the Magistrate may order to be paid to the owner or his representative.

Power to order disposal of property connected with charge, in Police-custody.

250. If any property charged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Magistrate, or in prosecution of any charge of an offence in regard to the obtaining thereof, and the person charged with such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted, or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty, or if any property has been seized by a Police-officer under chapter XVI, it shall be lawful for any Magistrate to make an order for the delivery of such property to the party appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, then to make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the party to whom the property is delivered, and to recover such property from him, so that the suit be commenced within two months next after such order has been made.

Expenses of complainants and witnesses.

251. Subject to any rules that may be passed by the Local Government, with the previous sanction of the Governor General in Council, a Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

SCHEDULE I.

ENACTMENTS REPEALED.

(SEE SECTION 2.)

Acts.

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1857 and" Sections twenty-two, twenty-three, twenty-six to thirty one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-three, ninety-five to ninety-eight (both inclusive), one hundred to one hundred and three (both inclusive), one hundred and six, one hundred and eight, one hundred and ten and one hundred and eleven. In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, fifty-eight, sixty to seventy-four (both inclusive), seventy-two to seventy-four (both inclusive).
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, seventy-nine, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive).
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—1*st*.—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2*nd*.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 155 and 156 of this Act.

3*rd*.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4*th*.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V.—OF ABETMENT.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto - -	Ditto -	Ditto -	Ditto - - - -	Ditto.

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto -	Ditto -	Ditto -	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	Not bailable-	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto -	Ditto -	Ditto -	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto -	Ditto -	Not bailable-	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto -	Ditto -	Not bailable-	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto -	Ditto -	Ditto -	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed - - -	Ditto -	Ditto -	Ditto -	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant -	Not bailable -	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto -	Ditto -	Ditto -	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection -	Ditto -	Ditto -	Ditto -	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto -	Ditto -	Ditto -	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.

126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto -	Ditto -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto -	Ditto -	Ditto -	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant -	Not bailable -	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons -	Ditto -	Fine of 500 rupees - -	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly -	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
147	Rioting - - - -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
148	Rioting armed with a deadly weapon -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence -	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto -	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto -	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Or to go armed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Ditto.

CHAPTER X.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade -	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant - -	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto -	Ditto -	Ditto -	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto -	Ditto -	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto -	Ditto -	Ditto -	Death, or as above -	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto -	Ditto -	Ditto -	The same as for the offence -	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto -	Ditto -	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto -	Ditto -	Bailable -	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
200	Using as true any such declaration known to be false.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for ten years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years...	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing appenhension of offender.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XL—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto -	Ditto -	Ditto -	Ditto - - - - - -	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for two years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto -	Ditto -	Not bailable -	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto -	Summons -	Ditto -	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death - -	May arrest without warrant.	Warrant -	Not bailable-	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation -	Ditto -	Ditto -	Not bailable-	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons -	Ditto -	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of Police.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin. - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto -	Ditto -	Ditto -	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant.	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto -	Ditto -	Ditto -	Ditto - - - -	High Court.
245	Unlawfully taking from a Mint any coining instrument.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp	Ditto	Ditto	Bailable	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure	Ditto	Ditto	Ditto	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule -	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health -	Shall not arrest without warrant.	Ditto -	Ditto -	Fine of 500 rupees - -	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
281	Exhibition of a false light, mark, or buoy -	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto -	Ditto -	Ditto -	Fine of 200 rupees - -	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
286	So dealing with any explosive substance -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
287	So dealing with any machinery - -	Shall not arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1. Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of Rs. 1,000, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant	Not bailable	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant	Not bailable	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act	Ditto	Ditto	Bailable	Imprisonment of either description for two years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine.	High Court.
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year and fine.	Magistrate.
311	Being a thug	Ditto	Ditto	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
			Of Hurt.			
323	Voluntarily causing hurt	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto	Ditto	Ditto	Ditto	Ditto.
329	Voluntarily causing grevious hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of wrongful Restraint and wrongful Confinement.					
341	Wrongfully restraining any person	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Criminal Force and Assault.					
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault.—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences - - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued*.

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence ...	Ditto	Ditto	Ditto	Transportation for life	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant	Not bailable	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Ditto	High Court.
396	Murder in dacoity	Ditto	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass - - -	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass - - - -	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto -	Ditto -	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
453	Lurking house-trespass or house-breaking -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
468	Forgery for the purpose of cheating -	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto -	Ditto -	Ditto -	Punishment for forgery - -	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Not bailable	Ditto - - -	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

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CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the document is a valuable security or will	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*concluded.*

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	Summons	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery - - - - -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation - - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation - - -	Ditto -	Ditto -	Bailable -	Ditto - - -	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant -	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto -	Ditto -	Ditto -	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons -	Bailable -	.....	Magistrate.
	If punishable with fine only -	Ditto -	Ditto -	Ditto -	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 37).

To *A. B.*, of

Whereas your attendance is necessary to answer to a complaint of (*state shortly the offence complained of*) : You are hereby required to appear in person or by authorized agent, as the case may be, before the [Magistrate] of , on the day of . Herein fail not.

(*Signature and Seal.*)

Dated the day of

B.

FORM OF WARRANT (*section* 46).

To (*name and designation of the person or persons who are to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him before me. Herein fail not.

(*Signature and Seal.*)

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 106).

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

D.

FORM OF WARRANT OF COMMITMENT (*section* 106).

To , the officer in charge of the Jail

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*), and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*) : You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

E.

FORM OF BOND TO KEEP THE PEACE (*section* 213).

Whereas I, , inhabitant of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*section* 139).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer ; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF BOND FOR GOOD BEHAVIOUR (*section* 229).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 183).

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

(*b.*) That you, on or about the day
On Penal Code, section 121. of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

[*To be substituted for* (*b*)].

(2.) That you, on or about the day of ,
On section 124. at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

(3). That you, being a public servant in the Department, directly
On section 161. accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

(4.) That you, on or about the day of
On section 304. at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

(5.) That you, on or about the day of ,
On section 306. at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

(6.) That you, on or about the day of , at
On section 325. , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

(7.) That you, on or about the day of
On section 392. , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

(8.) That you, on or about the day
On section 395. of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

(9.) That you, on or about the day
On section 166. of , at did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

(10.) That you, on or about the day of
On section 193. at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[*In cases tried by Magistrates, substitute* " within my cognizance" *for* " within the cognizance of the High Court." *In* (*d*), *omit* " by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a.*) I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

(*b.*) *First.*—That you, on or about the day
On Penal Code, sections 241 and 242. of at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

For (*b*). *First.*—That you, on or about the day of , at ,
On sections 302 and 304. committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the High Court;" *and omit* "by the said Court."

WHITLEY STOKES,
Secy. to the Govt. of India.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd February 1876, and was referred to a Select Committee with instructions to make their report thereon in one week: —

No. 3 OF 1876.

A Bill to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal.

WHEREAS it is expedient to extend Act No. XXVII of 1871 *(for the Registration of Criminal Tribes and Eunuchs)* to the Lower Provinces of Bengal; It is hereby enacted as follows :—

Preamble.

1. Section one of the said Act shall be read as if, after the words "Lieutenant-Governors of," the following word were inserted (namely) :—"Bengal."

Extension of section 1, Act XXVII of 1871, to Lower Provinces of Bengal.

STATEMENT OF OBJECTS AND REASONS.

For the last four years the Criminal Tribes Act has been in force in the North-Western Provinces, the Panjáb and Oudh; and the result has been a satisfactory diminution in the number of the offences against which the provisions of that Act are directed. The object of the present Bill is to extend those provisions to the Lower Provinces of Bengal, in parts of which there is reason to fear that there are, if not tribes, at least gangs and classes of persons addicted to the systematic commission of non-bailable offences.

CALCUTTA, *The 10th February* 1876. } R. TEMPLE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 4, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February 1876, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 2 OF 1876.

A Bill to enable the Government of India to declare certain coins of Native States to be a legal tender in British India.

WHEREAS it is expedient to enable the Governor General in Council to declare that a tender of payment of money, if made in certain coins made for or issued by Native States, shall be a legal tender in British India; It is hereby enacted as follows :—

Preamble.

1. This Act may be called "The Native Coinage Act, 1876":

Short title.

It extends to the whole of British India;

Local extent.

And it shall come into force at once.

Commencement.

2. In this Act "Native State" means any Prince or State in India in alliance with Her Majesty.

Interpretation-clause.

3. Subject to the provisions of section four, the Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made for or issued by any Native State, shall be a legal tender in British India;

Power to declare that the coins of a Native State shall be legal tender.

and the provisions of the Indian Coinage Act, 1870, shall apply to the coins to which such notification refers, so far as such provisions are applicable thereto, and save as expressly provided by such notification.

4. The power conferred by the first clause of section three shall be exercisable only when the coins referred to in such notification comply with the following conditions (that is to say)—

When such power may be exercised.

in the case of coins of gold, silver or bronze,

(*a*) their fineness is identical with that for the time being prescribed by law for coins of the Government of India of the same metal;

in the case of coins whether of gold, silver, bronze or copper,

(*b*) they are identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any Mint of the Government of India, or bear such relation thereto as is approved by the Governor General in Council;

(*c*) the devices upon their obverse and reverse differ from the devices on coins now made or issued by any such Native State, and have been approved by the Governor General in Council;

(*d*) upon each of such coins its value in money of the Government of India is inscribed in the English language;

(*e*) the Native State for which they are coined has undertaken to abstain during a term of not less than thirty years, from coining in its own mint gold, silver, bronze or copper, as the case may be, and has also undertaken that no coins resembling coins for the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction;

(*f*) such State has formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall be a legal tender in the territories subject to such State;

(*g*) such State has also agreed that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for or issued by such State under this Act, and that it will defray the cost of cutting and breaking them ; and

(*h*) such State has also agreed not to issue the same coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation.

Native States authorised to send metal to British Indian mint for coinage.

5. It shall be lawful for any such State to send to any mint in British India metal to be made into coin under this Act ; and, subject to the Mint-rules for the time being in force, and to the provisions hereinafter contained, the Mint-master shall receive such metal and convert it into coin, provided that it be fit for coinage.

Nothing herein contained shall be deemed to entitle any such State to have coins made under this Act at any Mint of the Government of India of any metal which is not for the time being legally coined at such Mint.

Power to impose a charge for coinage.

6. The Governor General in Council may impose on the coinage of any metal under this Act a charge sufficient to defray the expenses of coinage over and above the expenses of assay and refining ; and the Mint-master shall coin such metal at the charge so imposed.

Power to limit number of coins to be made under this Act for any Native State.

7. The Governor General in Council may from time to time, with reference to the reasonable requirements of the population of any Native State, fix the maximum number of any particular coins that shall be coined under this Act.

STATEMENT OF OBJECTS AND REASONS.

The establishment of a uniform coinage throughout the Indian Peninsula has long been recognized as politically and socially expedient, and the present Bill is intended to be a first step in this direction. It proposes to enable the Governor General in Council to declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made for or issued by any Native State shall (subject to the provisions of the Indian Coinage Act, 1870) be a legal tender in British India.

2. The power is limited by the following restrictions:—

(*a*). The fineness of the coins of the Native State in question must be identical with the fineness legally prescribed for the coins of the Government of India of the same metal :

(*b*). They must be identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any of its Mints, or bear such relation thereto as is approved by that Government :

(*c*). The devices upon their obverse and reverse must differ from the devices on coins now made and issued by any Native State, and have been approved by the Government of India :

(*d*). Upon each of such coins its value in money of the Government of India must be inscribed in English :

(*e*). The Native State for which they are coined must have undertaken (1) to abstain during a term of not less than 30 years from coining in its own mint, gold, silver, bronze, or copper, as the case may be, and (2) that no coins resembling coins which are for the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction :

(*f*). Such State must have formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall be a legal tender in the territories subject to the same State :

(*g*). Such State must have also agreed that the rules for the time being in force respecting the cutting and breaking of worn or counterfeit or called-in coin of the Government of India shall apply to the coins made or issued by such State, and that it will defray the cost of cutting and breaking them :

(*h*). Such State must also have agreed not to issue the same coins below their nominal value, and not to allow any advantage to any person in order to bring them into circulation.

3. In the case of gold coins the power to be conferred by the proposed Act will not of course be exercised unless a tender of payment in gold coined under Act XXIII of 1870 has been made a legal tender in British India.

4. The Bill authorises the Native States to send proper metal to any British Indian mint to be coined under the proposed Act, and enables the Government of India to impose a reasonable charge for coining it. But no such State will be entitled to have coins made at any mint of the Government of India of any metal not for the time being legally coined at such mint.

5. Lastly, the Governor General in Council is empowered to limit the number of any particular coin to be made under the proposed Act for any Native State.

6. The Act will not be brought into force with regard to the coins of any Native State which has not now a mint in active operation, unless the right of such State to re-open a mint is specially recognized by the Government of India.

Calcutta, 27th January 1876.

W. MUIR.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February 1876 :—

We, the undersigned Members of the Select Committee to which the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Telegram from Government of Bombay, dated 22nd February 1875.
From Government of Bengal, No. Z, dated 1st March 1875.
From Magistrate of Police, Madras, dated 19th February 1875.
Remarks by Major Weldon, Chief Magistrate, Madras, dated 24th December 1875.
From Government of Madras, No. 101, dated 19th January 1876, and enclosures.
Further remarks by Major Weldon, Chief Magistrate, Madras, dated 26th January 1876.

2. In compliance with suggestions received from several quarters, we have placed in the body of the Bill the sections which, as it was last settled, were only referred to in the first schedule.

3. We have added a few sections from the Police Acts now in force in the Presidency towns. And we have incorporated the substance of Act LII of 1860, and made similar provisions as to offences against the Acts relating respectively to Telegraphs, the Post Office and Arms and Ammunition.

4. We have provided for the record of the important particulars in each case and for the record of evidence in all cases in which such record is expedient.

5. The circumstances of the Presidency towns are such that it is unnecessary to require that the punishment of whipping is to be inflicted in the presence of a medical officer.

6. The subject of local nuisances is sufficiently provided for by the several Municipal Acts. We have therefore dispensed with the chapter relating to that subject.

7. We find that the Court of Petty Sessions at Bombay has fallen almost entirely into disuse. The powers conferred on it by Bombay Act IV of 1866, have never been availed of ; and in the year 1874 the only work done was 12 opium cases and 13 municipal appeals. Under these circumstances, and considering that no such Courts exist at Calcutta and Madras, we have provided for the abolition of the Court, reserving, however, the hearing of municipal appeals to the Senior Magistrate, who is already the "Revenue Judge" at the Presidency.

8. We have made considerable additions to the schedule of repeals.

9. We recommend that the Bill as now amended be republished in the *Gazette of India*, and that no further steps be taken in the matter until after the lapse of one month.

The 11th February 1876.

T. C. HOPE.
A. HOBHOUSE.
E. C. BAYLEY.

No. III.

THE PRESIDENCY MAGISTRATES' BILL, 1876.

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THE FIRST SCHEDULE—ENACTMENTS REPEALED.
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A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Preamble.

WHEREAS it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns and to increase the jurisdiction of such Courts; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Magistrates' Act, 1876":

Local extent.

It extends to all places within the local limits of the ordinary original criminal jurisdiction of the High Courts of Judicature at Fort William, Madras and

Bombay, and within the limits of the ports of the said towns and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues;

Commencement. And it shall come into force at once.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

Repeal of enactments.

3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law.

Saving of powers under local laws.

4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule.

Matters indicated in second schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any other law referred to in section twelve;

whether a warrant or a summons shall ordinarily issue in the first instance, and;

whether the offence is bailable or not,

are indicated respectively by the third, fourth and fifth columns of the same schedule.

5. Cases pending in any of the Courts of Police Magistrates within the said limits when this Act comes into force shall be decided, as far as may be, according to the procedure provided in this Act.

Pending cases.

6. In this Act the following words and expressions have the following meanings, unless a different intention appears from the context:—

Definitions.

"Special law." "Special law" means a law applicable to a particular subject:

"Local law." "Local law" means a law applicable to a particular part of British India:

"Investigation." "Investigation" includes all the proceedings by the Police, authorized by this Act, for the collection of evidence:

"Inquiry." "Inquiry" includes any inquiry which may be conducted by a Magistrate under this Act:

"Inquired into." "Inquired into" means and includes every proceeding preliminary to trial:

"Trial." "Trial" means the proceedings taken in Court from the time when the accused appears in Court, and includes the punishment of the offender:

"Written." "Written" includes "printed," "lithographed," "photographed" and "engraved":

"Magistrate." "Magistrate" includes a Presidency Magistrate:

"Presidency-town." "Presidency-town" includes all places within the limits mentioned in section one:

"District." "District" shall be deemed to have the meaning attached to it in the Code of Criminal Procedure, and shall include a Presidency-town:

"High Court." "High Court" means the High Courts of Judicature at Fort William, Madras and Bombay:

"Cognizable offence or case." "Cognizable offence or case" means an offence for, or a case in, which a Police-officer may, by any law in force for the time being, arrest without warrant:

"Non-cognizable offence or case." "Non-cognizable offence or case" means an offence for, or a case in, which a Police-officer may not arrest without warrant:

"Bailable offence or case." "Bailable offence or case" means an offence for, or a case in, which bail may be taken under any law in force for the time being:

"Non-bailable offence or case." "Non-bailable offence or case" means an offence for, or a case in, which bail may not be taken under any law in force for the time being.

In every part of this Act, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

CHAPTER II.

CONSTITUTION AND POWERS OF THE MAGISTRATES' COURTS.

7. The Local Government may, with the sanction of the Governor General in Council, constitute within the said Presidency-towns respectively so many Divisions as the said Government thinks fit, and may define the extent thereof, and from time to time alter the number and extent of such divisions, and establish a Presidency Magistrate's Court for each of such divisions.

Establishment of Presidency Magistrates' Courts.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns, respectively, who may sit and act as such Magistrates in any of the said Courts, and may suspend or remove persons so appointed.

Appointment of Presidency Magistrates.

Every person so appointed shall, by virtue of his office, be a Justice of the Peace for the said towns, and shall exercise all powers and jurisdictions which, by virtue of any law for the time being in force, may be exercised by two Justices of the Peace.

Presidency Magistrates to be Justices of the Peace.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law now in force may be exercised by the Court of Petty Sessions.

9. In every Presidency-town the Local Government shall appoint one of the Presidency Magistrates to be Senior Magistrate, and such Magistrate shall exercise in such town all the powers which by any law, regulation or rule, are required to be exercised by any Senior or Chief Magistrate, and shall have authority

Appointment and powers of Senior Magistrate.

to make rules, not being inconsistent with the provisions of this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Notwithstanding anything in the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Senior Magistrate.

10. All existing Magistrates of Police shall be deemed Presidency Magistrates under this Act, and all references in any Act now in force to Magistrates of Police shall be deemed to be made to such Presidency Magistrates.

Saving of existing incumbents.

11. Presidency Magistrates may pass the following sentences on persons convicted before them of offences which the said Magistrates are competent to try:—

Sentences which Magistrates may pass.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law):

Fine to the extent of one thousand rupees:

Whipping.

A Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award.

12. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by the Courts appointed under this Act. But no such Court shall award any sentence in excess of its powers.

Offences under enactments not specifying Court authorized to try.

13. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Offence committed in Magistrate's presence.

14. A Magistrate may record any statement made to him by any person, or any confession made to him by any person accused of an offence by any Police-officer or other person. Such statements and confessions shall be recorded in the manner hereinafter prescribed for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried. No Magistrate shall record any such confession unless, upon enquiry, he has reason to believe that it was made voluntarily, and he shall make a memorandum at the foot of any such confession to the following effect:—

Powers of Magistrate to record statements and confessions.

"I believe that this confession was voluntarily made."

(Signed) A. B.,
Presidency Magistrate.

15. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, such Magistrate may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or such other person as aforesaid, as the case may be, and may compel compliance with such order, using force if necessary.

Magistrate may compel immediate restoration of such woman or child.

CHAPTER III.

THE PLACE OF INQUIRY AND TRIAL.

16. Every offence shall ordinarily be inquired into, and, if tried by a Magistrate, shall be tried in the district in which it was committed. If tried by a High Court, it shall (subject to the provisions of section 64A of the Code of Criminal Procedure) be tried by that High Court to which the Magistrate commits.

Place for inquiry and trial of offence.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

17. When a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or omitted to be done, or any such consequence has ensued.

Accused triable in district where act done, or where consequence ensues.

Illustrations.

(*a.*) A is wounded in the district of X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in the district of X, and is, during twenty days, unable to follow his ordinary pursuits in the district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in the district of Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in district X or district Y.

18. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it happened, or in the district in which the offence with which it was so connected happened.

Place for trial where act is offence by reason of relation to other offence.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in any district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of the original concerted plan and with reference to the common object.

Place for inquiry or trial where scene of offence is uncertain;

19. When it is uncertain in which of several districts an offence was committed; or

or not in one district only;

where an offence is committed partly in one district and partly in another; or

where the offence is a continuing one and continues to be committed in more districts than one; or

or offence is continuing;

or consists of several acts.

where it consists of several acts done in different districts,

it may be inquired into and tried in any one of any of such districts.

Illustrations.

(*a.*) An offence committed on a journey or voyage may be inquired into and tried in any district through which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

(*b.*) An offence committed near the boundary between two districts may be inquired into and tried in either.

(*c.*) A charge of being a thug, or of having belonged to a gang of dacoits, may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*d.*) A charge of having escaped from custody may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*e.*) A charge of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried, either in the district in which the property which is the subject of the offence was received, or in the district or districts in which the whole or any part of it has been misappropriated, or where the offence of criminal breach of trust has been wholly or partly committed.

(*f.*) A steals a buffalo from B in district W, and personally, or by his agents, conveys the buffalo through districts X and Y into district Z. This is a continuing offence, and A may be tried either in W, X, Y or Z.

Murder as a thug, dacoity or dacoity with murder.

20. The offence of murder as a thug, dacoity or dacoity with murder may be inquired into and tried wherever the person accused may happen to be when arrested, or in any other district in which he might be tried under any other provision of this Code, or any other law relating to the trial of such offence.

High Court to decide, in case of doubt, district where inquiry shall take place.

21. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

22. No sentence or order of any criminal Court shall be liable to be set aside merely on the ground that the investigation, inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person was actually prejudiced in his defence, or the prosecutor in his prosecution, by such error, in either of which cases a new trial may be ordered.

CHAPTER IV.

OF THE DUTY OF THE PUBLIC.

All persons to give information of certain offences.

23. Every person aware of the commission of any offence made punishable under section 121, 121 A, 122, 123, 124, 124 A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Magistrate.

All persons to assist Magistrate and Police in certain cases.

24. Every person is bound to assist a Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest.

CHAPTER V.

OF COMPLAINTS TO A MAGISTRATE.

Processes.

25. Proceedings to compel the appearance before a Magistrate of persons accused or suspected of offences, who have not been arrested without warrant, may be by summons or by warrant.

When summons or warrant may be issued.

26. A summons or a warrant may be issued—

(*a.*) upon information or report by a Police-officer. Such information or report shall be regarded as a complaint:

(*b.*) upon a complaint by a private person. Any person acquainted with the facts of a case may make a complaint:

(*c.*) upon suspicion entertained by a Magistrate that an offence has been committed.

Who may entertain complaints.

27. A Magistrate may entertain a complaint of an offence, whether preferred directly by the complainant, or on report of a Police-officer, and may issue process, in the manner hereinafter prescribed, to compel the appearance of persons accused of such offences.

Effect of complaint or Police report.

A complaint or a Police report gives jurisdiction to a Magistrate to inquire into or try any offence covered by the facts complained of or reported, and also to try or commit for trial any person who, at the time when the complaint or report is made, or subsequently, appears to have committed the offence disclosed.

Who may act without complaint.

28. A Magistrate may, without any complaint, take cognizance of any offence which he suspects to have been committed, and may issue process in the manner hereinafter prescribed to compel the appearance before him of

persons whom he suspects to have committed any such offence.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Magistrate to take cognizance of a case without complaint, when the offence falls under chapters XIX, XX or XXI of the Indian Penal Code; nor to entertain a complaint, or to take cognizance without complaint, of an offence, without sanction, where such offence, by any law in force, may not be entertained without sanction.

Commitment to High Court.

30. A Magistrate may commit any person to the High Court for any offence triable by such Court.

Magistrate to examine complainant.

31. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made to a Magistrate, such Magistrate, if he is competent to receive such complaint, shall examine the complainant. Such examination may be on oath or affirmation or not, as the Magistrate in each case thinks fit; but

Effect of omission.

where the complaint has been made by petition, and the Magistrate neglects to examine the complainant,

the trial of the person accused shall not be set aside on this ground.

Provided that the Magistrate, if he thinks fit, may require an information in writing to be laid in every case in which it seems to him to be expedient before the matter of the complaint or charge is brought before him.

Dismissal of complaint.

32. The Magistrate before whom such complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

When summons may issue.

33. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate as may then be there, to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

Where warrant or summons may issue on complaint.

34. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months,

or any offence triable exclusively by the High Court, or which in the opinion of such Magistrate ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

Warrant to arrest, if summons not obeyed.

35. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

36. In cases, of whatever nature, in which the Magistrate thinks fit to issue a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf.

But it shall be in the discretion of such Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

CHAPTER VI.

OF THE SUMMONS.

Form of summons.

37. Every summons issued by a Magistrate to an accused person shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

Fees for summonses and warrants.

38. For every summons or warrant issued by a Magistrate there shall be paid a fee of eight annas, and for every summons to attend and produce documents there shall be paid a fee of four annas.

Power to remit fees.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the party complaining is unable to pay the same, or if the complaint is made by a public servant in the execution of his duty.

Summons how served.

39. The summons shall be served on the accused personally, in any district where he may be, by delivering or tendering the summons to him; or, in case the accused person cannot be found, the summons may be left for him with some adult male member or servant of his family residing with him, and the person summoned, or the person with whom the summons is left, shall, if required by the serving officer, sign a receipt therefor.

Service when accused cannot be found.

40. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving officer shall affix the summons on some conspicuous part of the house in which the accused person ordinarily resides.

41. A Magistrate may, notwithstanding the issue of such summons, either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Issue of warrant in addition to summons.

42. A Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence known or suspected to have been committed by such person in a different district, or on the high seas, or in a foreign country, and for which, if committed within such local limits, he might issue a summons or warrant.

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

43. When a summons is to be served at any place outside the Presidency town, the Magistrate may send the summons in duplicate to the local Magistrate of the place where the accused shall reside or be to be there served.

Service of summons at distant places.

44. When service of summons is effected at such distance as aforesaid, and also in cases where the person who shall have served the same shall not be present at the hearing of the complaint, the service may be proved by a solemn declaration, purporting to be made before a Magistrate, which declaration may be endorsed on the duplicate summons and returned to the Court whence the process issued, or by a copy of the summons countersigned by the person to whom it is addressed, or by a receipt under section 39.

Proof of service in such cases and when server not present.

45. The provisions relating to a summons, its issue and service, contained in sections 37 to 44 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER VII.

OF THE WARRANT.

46. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form of warrant.

A warrant issued under this Act remains in force until the person arrested is brought into the presence of the Magistrate who issued it or some other Magistrate of the town in which it was issued and so long as he remains before such Magistrate. If the person arrested is to be remanded to custody, an order must be made under section 68 or a warrant issued under section 104.

Force of warrant of arrest.

47. It shall be in the discretion of a Magistrate, in issuing a warrant for the arrest of any person, to direct by endorsement on the warrant that, if such person be willing and ready to give bail, in a sum to be fixed by the Magistrate, for his appearance before the Magistrate on a specified day (which sum and day shall be named in such endorsement) to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

Magistrate may direct bail to be taken.

If bail is given, the officer shall forward the bail-bond to the Magistrate.

Bail-bond to be forwarded.

48. A warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police-officer be immediately available, direct it to any other person.

Warrants to whom directed.

49. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

50. A warrant directed to a Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom the warrant is directed or endorsed.

Execution of warrant by Police-officer other than the one addressed.

51. The Magistrate by whom a warrant of arrest is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

Any Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he is competent to issue a warrant.

Arrest in presence of Magistrate.

52. A warrant issued by a Magistrate shall ordinarily be executed in the district in which it was issued.

Where warrant may be executed.

But if the person against whom the warrant is issued escapes, goes into, or is, in any place out of the district in which the warrant was issued, the warrant may be executed in such place.

53. A Magistrate may direct a warrant to be executed outside his local jurisdiction, either after endorsement by a Magistrate within whose local jurisdiction it is to be executed, or without such endorsement.

Execution of warrant outside issuing Magistrate's jurisdiction.

If the warrant is to be so endorsed, it may be sent by post to the Magistrate within whose local jurisdiction it is to be executed and by whom it is to be endorsed.

If the warrant is not to be endorsed, it shall be entrusted to a Police-officer, to be taken, either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, in whose local jurisdiction the warrant is to be executed.

54. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Magistrate

Procedure on execution of warrant outside issuer's jurisdiction.

who issued the warrant be within twenty miles or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 47, be carried before the Magistrate in whose local jurisdiction the arrest was made.

55. A Magistrate or Police-officer to whom a warrant is directed for execution shall execute the same, or cause it to be executed, and any Magistrate before whom a person is brought under the provisions of section 54 shall, if the person arrested appears to be the person intended by the Magistrate who issued the warrant, direct his removal in custody to the Magistrate who issued the warrant,

Procedure by Magistrate before whom person is brought on arrest under warrant from other jurisdiction.

or, if the offence be bailable, and the person arrested be ready and willing to give bail, shall take bail for his appearance before the Magistrate who issued the warrant, and the recognizance or bail-bond shall be forwarded to such Magistrate.

56. If any person accused of an offence not coming within section 33 absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate having jurisdiction shall, if he thinks, whether after taking evidence or not, that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

Proclamation for person absconding.

Such proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly made shall be conclusive evidence of due compliance with the law.

57. Such Magistrate may order the attachment of any property, moveable or immoveable, or both, belonging to the person so absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without the jurisdiction of such Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate having jurisdiction; or by the appointment of a manager and receiver; or by an order prohibiting the payment of rent to the absent person, as such Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner.

58. When any person whose property has come under the disposal of Government under section 57 appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Magistrate, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

Restoration of forfeited property.

59. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of section 42, in respect of an offence known or suspected to have been committed in another district or division of a district, the Magistrate who issued the warrant shall, unless he is authorized to complete the inquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or shall take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

CHAPTER VIII.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

60. A Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor, but no person shall be entitled to do so without permission. Any person permitted to prosecute may conduct the prosecution personally or by counsel.

Permission to conduct prosecution.

61. Every person accused before a Magistrate of an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the law in force for the time being relating to pleaders.

Right of accused to be defended.

Any such person may, with the permission of the Court (but not otherwise), employ any mukhtár or other person, not being a barrister, attorney or pleader, to assist him in his defence.

If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as to it seems fit.

Where accused person does not understand proceedings.

62. The place in which the Court of a Magistrate is held for the trial of any offence, or for the purpose of conducting an inquiry into any case triable by a High Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

Criminal Courts to be open.

But the Magistrate may, if he thinks fit, order that, during the inquiry into or trial of any particular case, no person shall have access to, or be, or remain in, the room or building used by the Court, without the consent or permission of the Court.

63. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Compounding offences.

CHAPTER IX.

OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

64. Cases, triable exclusively by a High Court in the exercise of its ordinary original criminal jurisdiction or which in the opinion of a Magistrate ought to be tried by such Court, shall be inquired into by a Magistrate, and in such inquiry he shall adopt the following procedure.

Procedure in preliminary inquiries.

65. When the accused person appears or is brought before the Magistrate, or, if his personal attendance is dispensed with, when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Examination of complainant and witnesses for prosecution.

Such evidence shall be taken in the manner described in clauses 2, 3 and 4 of section 75.

66. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent, when his personal attendance is dispensed with and he appears by agent.

Examination to be in presence of accused.

The accused person or his agent shall be permitted to examine and re-examine his own witnesses, and to cross-examine the complainant and his witnesses.

Accused may cross-examine.

67. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

Power of Magistrate to summon and examine any person.

68. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time adjourn the inquiry and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days.

Adjournment of inquiry and remand.

During the time that the accused person is so remanded, the Magistrate shall deal with him in accordance with the provisions of chapter XVII.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable ground for a remand.

69. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed accordingly.

When accused person to be discharged.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

70. When evidence has been given before a Magistrate, which appears to justify him in sending the accused person to take his trial for an offence which is triable exclusively by the High Court, or which, in the opinion of the Magistrate, is one which ought to be tried by such Court, the accused person shall be sent for trial by such Magistrate before the High Court.

When accused to be committed for trial.

71. When the Magistrate determines to send the accused person before the High Court for trial, he shall, after the evidence for the prosecution has been recorded, make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge.

Framing of charge on which accused is to be tried.

Such instrument, the record of the original enquiry, and any weapon or other article of property necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Charge, &c., to be forwarded to High Court.

72. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy thereof shall be furnished to him, if he so require.

Charge to be explained, and copy furnished, to accused.

73. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he wishes to be summoned to give evidence on his trial before the High Court.

List of witnesses for defence on trial.

The Magistrate may, if he thinks proper, summon the persons so named to attend and give evidence at the enquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time.

Further list.

CHAPTER X.

OF THE TRIAL OF CASES BY MAGISTRATES.

74. The following procedure shall be observed in the trial of cases by Magistrates under this Act.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,

(*b*) the date of the commission of the offence,

(*c*) the name of the complainant,

(*d*) the name of the accused person,

(*e*) the offence complained of or proved,

(*f*) the prisoner's plea,

(*g*) the final order,

(*h*) the date of such order.

75. The Magistrate need not record the evidence of the witnesses in any case tried by him under this Act.

Record of evidence.

But if he think fit to record such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of a narrative, but the Magistrate may in his discretion take down or cause to be taken down any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

76. No formal charge need at any time be made against the accused person, and neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. The Magistrate may convict the accused person of any offence he is competent to try, and which, from the facts proved, the accused person appears to have committed, whatever may be the nature of the complaint or process. If a formal charge be made it shall be drawn up in accordance with the provisions contained in chapter XX.

Object and effect of complaint.

77. No defect in the complaint or process shall affect the validity of the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

78. If, upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant or otherwise, the Magistrate shall deal with him in accordance with chapter XVII.

Accused person may be admitted to bail, or allowed to be at large on his personal recognizance.

79. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Dismissal or adjournment on non-appearance of complainant.

80. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

81. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

82. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear, the Magistrate may dismiss the complaint.

83. In every case in which any person is given in charge to any Police-officer, or in which any information or complaint of any offence is laid or made before any Magistrate and is not further prosecuted, or in which, if further prosecuted, it appears to the Magistrate by whom the case is heard that there was no sufficient ground for making the charge, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate seems meet.

Compensation to person informed or complained against.

In such cases, if more persons than one are accused in the complaint, the Magistrate may, in like manner, award compensation not exceeding fifty rupees to each of them.

All compensation awarded under this section may be recovered as if it were a fine.

84. If a complainant, at any time before a final order is passed in any case, satisfies the Magistrate that there are sufficient grounds

Withdrawal of complaint.

for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it.

A complaint withdrawn under this section shall not again be entertained.

Acquittal.

85. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Sentence.

If the accused person is convicted, the Magistrate shall pass sentence upon him, and, in cases appealable under this Act, shall record a brief statement of the reasons for the conviction, together with the substance of the evidence on which the conviction was had, unless he has already recorded the evidence itself in the manner described in section 75.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of such accused person's agent, if he has been permitted to appear by agent; or the accused person may be required to attend to hear such sentence.

How the Magistrate is to proceed when, after commencement of trial, he finds the case beyond his jurisdiction.

86. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or one which, in the opinion of such Magistrate, ought to be tried by the High Court, the Magistrate shall stop further proceedings under this chapter, and shall either submit the case to the Magistrate having jurisdiction, or commit the accused person to the High Court in accordance with the provisions contained in chapter IX.

Procedure in cases not of a criminal nature.

87. In all cases not of a criminal nature, if no sufficient cause be shown for the non-appearance of the person against whom complaint has been made, the Magistrate upon proof of the service of the summons, may proceed to hear and determine the case in his absence, or may, if he think fit, issue his warrant for apprehending and bringing the said person before him or some other Magistrate.

Provided that the prosecution in any such case shall be commenced within three months after the commission of the offence.

CHAPTER XI.

APPEALS.

No appeal in case of acquittal, except on behalf of Government.

88. The Local Government may direct an appeal by the Public Prosecutor or other officer specially or generally appointed in this behalf, from a Magistrate's order of acquittal, or of dismissal, or of leave to withdraw operating as an acquittal; but in no other case shall there be an appeal from a judgment or order.

Such appeal shall lie to the High Court. No appeal shall be presented under this section after six months from the date of the order complained of.

The High Court may, in any case so appealed, direct a new trial by another Court, or may pass such order as may be warranted by law.

Appeal.

89. Any person convicted on a trial held by a Magistrate, may appeal to the High Court if the sentence complained of involves imprisonment for a term exceeding one year or a fine exceeding five hundred rupees:

Provided that, where an accused person has been convicted on his own plea, no appeal shall lie except as to the extent or legality of the sentence.

For the purposes of the Indian Limitation Act, all appeals under this Act and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

Copy of judgment to accompany petition.

90. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copies of proceedings.

91. If any person affected by a sentence or other order passed by a Court under this Act desires to have a copy of any proceeding, he shall, on applying for such copy, be furnished therewith provided that he pay for the same, unless the Court, for some special reason, sees fit to furnish it free of cost.

Procedure when appellant in jail.

92. If the party appealing be in jail, he shall be at liberty to present his petition of appeal, and the copy of the judgment or order appealed against, to the officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Rejection of appeal.

93. The High Court shall fix a reasonable time within which the appellant or his counsel or authorized agent may appear, and it may reject the appeal if, on a perusal of the petition of appeal and the copy of the judgment or order appealed against, and after hearing the appellant or his Counsel or authorized agent, if he appears, it considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Before rejecting the appeal, the Court may call for and peruse all or any part of the proceedings of the Magistrate, but shall not be bound to do so.

In rejecting an appeal under this section, the High Court shall not enhance the sentence.

Notice of appeal.

94. If the High Court decide to hear the appeal, it shall cause notice to be given to the appellant and shall also give notice to the Magistrate whose judgment or order has been appealed against, who shall inform, if necessary, the public prosecutor, Government pleader, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard,

and in cases under section 88, where the High Court decides to hear the appeal, it shall also cause notice to be given to the respondent.

High Court may alter or reverse finding and sentence, or enhance sentence.

95. The High Court, after perusing the proceedings of the Magistrate, and after hearing the appellant, his counsel or agent, if they appear, and the public prosecutor, Government pleader or other officer empowered by Government or by the Magistrate in that behalf, if he appears, may alter or reverse the finding and sentence or order of such Court, and may, if it see reason to do so, enhance any punishment that has been awarded or order the appellant to be re-tried before any Magistrate or before the High Court.

Provided that the High Court shall not inflict a greater punishment than is prescribed for the offence by the Indian Penal Code.

Suspension of sentence pending appeal. Release of appellant on bail.

96. In any case in which an appeal is allowed, the High Court may, pending the appeal, order that the sentence be suspended, and, if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

The period during which the sentence is suspended shall be omitted in reckoning the completion of the punishment.

High Court may make or direct further inquiry.

97. In any case in which an appeal has been allowed, the High Court, if it thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may either make such further inquiry and take such additional evidence itself, or may direct such inquiry to be made and additional evidence to be taken by a Magistrate.

If the High Court takes further evidence and passes judgment and sentence, no fresh right of appeal arises in respect of such sentence.

When the evidence has not been taken before itself, the result of the further inquiry and the additional evidence shall be certified to the High Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the presence of the appellant may be dispensed with when the further inquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

98. No order passed by a Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings on or before trial, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the prisoner in his defence.

No irregularity in the proceedings up to trial is a sufficient ground for reversing any judgment, sentence or order made or passed in a trial properly held.

High Court may reduce punishment.

99. In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the High Court, is proved by the evidence, the High Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Procedure in case of conviction by Court not having jurisdiction.

100. When a Magistrate has convicted a person of an offence not triable by such Magistrate, the High Court shall annul the conviction and sentence of such Magistrate, and direct the trial of the case by a Court of competent jurisdiction.

Unless otherwise provided, no appeal to lie from order of Magistrate.

101. No appeal shall lie from any order of a Magistrate, except in the cases provided for by this Act or by any law for the time being in force.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, or to grant an enhanced award.

(*b.*) There is no appeal against an order of a competent Magistrate dismissing a complaint.

(*c.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*d.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*e.*) There is no appeal against an order of maintenance.

(*f.*) There is no appeal against the order of a competent Court refusing to order a commitment.

(*g.*) There is no appeal against an interlocutory order, such as a claim to appear by agent.

Notice to Magistrate concerned, of intention to make application under Act X of 1875, s. 147.

102. When an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the party making such application shall give notice to the Magistrate, to whose decision such application relates, seven days at least before such application is made, and shall at the same time furnish such Magistrate with a copy of the grounds on which such application is to be made.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

103. When the decision of any Magistrate is called in question in the High Court by any process issued on an *ex parte* application, the Magistrate may submit with the record a statement setting forth the grounds of his decision and any facts he may consider material to the issue; and this statement the Court shall consider before determining the matter so as to overrule or set aside the decision or acts of the Magistrate to which the application relates, and notwithstanding that no Counsel appear on behalf of the Magistrate.

CHAPTER XII.

EXECUTION.

Court to send accused, with warrant for execution of sentence to officer in charge of jail.

104. In cases tried by a Magistrate, the Court passing the sentence shall forward the accused person with a warrant for the execution of the sentence, to the officer in charge of the jail of the Presidency town in which the trial was held,

or where there are more such jails than one, to such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, and the period during which he is to be imprisoned, and the nature of the imprisonment or other punishment:

Sentence of whipping.

105. Where the accused person is sentenced to whipping, the sentence may be executed at such place and time as the Court may direct.

Form and direction of warrant of commitment.

106. Every warrant for the commitment of a person to custody shall be in writing, and signed and sealed by the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (C or D, as the case may be) given in the third schedule to this Act or to the like effect.

Levy of fine.

107. Whenever an offender is sentenced to pay a fine, the Magistrate may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Magistrate, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Section to what cases applicable.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Detention of offender until return made to distress-warrant.

When a warrant of distress is issued, the Magistrate may order the offender to be detained in custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance; but if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress.

Distress not illegal nor distrainer a trespasser for defect of form in proceedings.

No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto; nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Who may issue warrant.

The warrant may be issued either by the Magistrate who passes the sentence or by his successor in office.

Payment of fine in compensation.

108. Whenever a Magistrate imposes a fine under any law in force for the time being, the Magistrate may order the whole or any part of the fine to be paid in compensation,

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the offence complained of, where such offence can, in the opinion of the Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded in a case which is subject to appeal, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

Imprisonment in default of payment of fine.

109. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by Magistrate.

Provided that, in no case decided by a Magistrate, where imprisonment has been awarded as part of the substantive sentence, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Magistrate may award such term of imprisonment in default of payment of fine as is allowed by law, provided the amount does not exceed the Magistrate's powers under this Act.

Whipping, if awarded in addition to imprisonment, when to be inflicted.

110. When the punishment of whipping is awarded, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Mode of inflicting punishment.

111. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of the officer in charge of the jail.

Punishment not to be inflicted if offender not in fit state of health.

112. No sentence of whipping shall be carried into execution unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo the punishment.

Stay of execution.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

Not to be executed by instalments.

No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under section 112.

113. In any case in which, under section 112, a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either order the discharge of such offender, or sentence him, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not carried out, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to award.

Sentence in cases of simultaneous conviction of several offences.

114. When a person is convicted, at one trial, of two or more offences punishable under the same or different sections of any law for the time being in force, the Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other.

It shall not be necessary for the Magistrate, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before the High Court:

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

Trial of previously convicted persons.

115. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate considers him an habitual offender, be committed to the High Court.

Currency of sentence on escaped convicts.

116. When sentence is passed on an escaped convict, for such escape or for any other offence, the Magistrate may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period, equal to that which remained unexpired of his former sentence at the time of his escape.

Commencement of sentence on offender already sentenced for other offence.

117. When sentence is passed on a person already under sentence of imprisonment or transportation, and the sentence is for imprisonment, the Magistrate shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced:

Proviso.

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

Evidence of medical witness.

118. The examination of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any criminal trial, although the person examined is not called as a witness.

Court may summon medical witness.

The Court may summon such civil surgeon or other medical witness, if it sees sufficient cause for doing so.

Report of chemical examiner.

119. Any document purporting to be a report from the chemical examiner, or assistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Genuineness of signature may be presumed.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Previous conviction or acquittal how proved.

120. Where a previous conviction or acquittal is to be proved against an accused person, application shall be made to the officer in whose custody the records of such trial may be.

It shall not be necessary to produce the record of the conviction or acquittal of such accused person, or a copy thereof, but an extract may be produced

in proof of such conviction or acquittal, if certified, under the hand of the clerk of the Court or other officer having the custody of the records of the Court in which such conviction or acquittal was had, or by the deputy of such clerk or officer, to be a copy of the charge, finding and sentence, as the case may be.

Record of evidence in absence of accused.

121. If an accused person abscond, and after due pursuit cannot be arrested, any Court competent to try or to commit such accused person for trial for the offence complained of may, in his absence, record the statements of the persons acquainted with the facts; and such depositions may, on the arrest of such person, be put in on his trial for such offence, if it is not practicable to procure the attendance of such witnesses.

Convictions on evidence partly recorded by one Magistrate and partly by another.

122. Whenever any Magistrate, after having heard part of the evidence in a case, ceases to exercise jurisdiction in such case, and is succeeded by another Magistrate who has and who exercises jurisdiction in such case, such last-named Magistrate may decide the case on the evidence partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and commence afresh:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses shall be re-summoned and re-heard, in which case the trial shall be commenced afresh:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new trial.

Continuation of proceedings not completed by Magistrate commencing inquiry.

123. Whenever, from any cause, a Magistrate making an inquiry under this Act is unable to complete the proceedings himself, any other Magistrate having jurisdiction to inquire and to commit may complete the case and proceed as if he had recorded all the evidence himself.

When personal attendance of witness may be dispensed with.

124. Whenever in the course of a trial before a Magistrate it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate may dispense with the personal attendance of such witness.

Such Magistrate may direct a commission to the Magistrate of the District, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to take the evidence of such witness as directed in section 330 of the Code of Criminal Procedure.

Issue of commission and procedure thereunder.

If the witness is within the local limits of the ordinary original criminal jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, the Court dispensing with his personal attendance may direct a commission to any Magistrate within such limits, and such Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him.

Commission in case of witness being within jurisdiction of a High Court.

The prosecutor and the accused person may forward interrogatories upon which the officer to whom the commission is directed shall examine the witness, or the prosecutor may appear personally before the Magistrate to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

Prosecutor and accused may examine witness.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

CHAPTER XIV.

OF THE EXAMINATION OF ACCUSED PERSONS.

Examination of accused.

125. In all inquiries and trials under this Act, the Magistrate may from time to time, at any stage of the inquiry or trial and without previously warning the accused person, examine him, and put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in the case under inquiry, but also in trials for any other offences which his replies may tend to show he has committed.

Examination of accused how recorded.

126. Whenever an accused person is examined in the course of a preliminary enquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

No influence to be used to induce disclosures.

127. Except as is provided in section 128, no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Magistrate may tender pardon to accomplice.

128. A Magistrate may, after recording his reason for so doing, tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case, under the rules applicable to the examination witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

When Magistrate or High Court may direct commitment of person to whom pardon has been tendered.

129. When a pardon has been tendered under section 128, if it appears to the Magistrate before the trial, or to the High Court, that any person who has accepted such offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence, such Magistrate or Court may commit, or direct the commitment of, such person, for trial for the offence in respect of which the pardon was so tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

CHAPTER XV.

OF SECURING THE ATTENDANCE OF WITNESSES.

Power to summon material witness or examine person present.

130. Any Magistrate may, at any stage of any proceeding, inquiry or trial, summon, in the manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness, and it shall be the Magistrate's duty to do so if the evidence of such person appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

131. If a Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Procedure when warrant cannot be served.

132. If such warrant cannot be executed, and the Magistrate considers that the witness absconds or conceals himself for the purpose of avoiding the service thereof, he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of such witness' ordinary place of abode, or if he has no such abode, of the Court of the Magistrate.

If the witness does not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness, to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall authorize the attachment of any moveable property within the jurisdiction of the Magistrate by whom it was made; and it shall authorize the attachment of any moveable property without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Release of attached property of witness appearing and satisfying Magistrate.

133. If the witness appears and satisfies such Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as to such Magistrate seems fit.

Sale of property of witness not appearing or not satisfying Magistrate.

If such witness does not appear, or, appearing, fails to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of section 172 of the Indian Penal Code.

If the witness pays to such Magistrate the costs and fine as aforesaid, his property shall be released from attachment.

Power to order prisoner in jail to be brought up for examination.

134. When any Magistrate is desirous of examining any prisoner confined in any civil or criminal jail as a witness or accused person in any case pending before him, it shall be lawful for such Magistrate to issue an order to the officer in charge of the said jail, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Court, for examination; and the officer in charge of the said jail, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

Arrest of person disobeying summons.

135. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal to bring such person before him to testify as aforesaid.

Committal of person refusing to answer.

136. If any witness summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 177 or 178.

Inquiries.

137. In inquiries preliminary to commitment under this Act to a High Court, the Magistrate making the inquiry shall summon the witnesses for the prosecution to appear before him, and shall take their evidence against the accused person. The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Procedure in inquiries preliminary to commitment.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person.

Power to summon supplementary witnesses.

138. In such inquiries, when the person accused is to be committed for trial, and has given in any list of witnesses mentioned in section 73, the Magistrate may either summon the witnesses to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Summons to witnesses when accused person is to be committed.

139. Prosecutors and witnesses for the prosecution and defence, whose attendance is necessary before the High Court, and who appear before the Magistrate, shall execute before him recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Recognizances of prosecutors and witnesses.

If any prosecutor or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him under custody to the High Court.

Detention in custody in case of refusal to attend or to execute recognizance.

Witnesses.

140. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

In cases tried upon summons.

Ordinarily it shall be the duty of the complainant and accused to produce their own witnesses.

In such cases, it shall be in the discretion of the Magistrate to summon any witnesses named by the complainant or the accused; and he may require, in such cases, a deposit of the expenses of a witness before summoning him.

141. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall summon such of them to give evidence before him as he thinks necessary.

In cases tried upon warrant.

The Magistrate shall also, subject to the provisions of section 137, summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for that purpose, at his discretion, adjourn the trial from time to time.

Of Securing Documentary Evidence.

142. Whenever a Magistrate considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, such Magistrate may issue a summons to the party in whose keeping such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

Procedure for obtaining production of document required as evidence.

143. If there appears reason to believe that the person to whom the summons is addressed will not produce it as directed in the summons, such Magistrate may issue a search-warrant for the document in the first instance.

When warrant for search for documents may issue.

144. Any Magistrate may, if he thinks fit, impound any document produced before him, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

Power to impound document produced.

CHAPTER XVI.

OF SEARCH-WARRANTS.

145. When a Magistrate considers that the production of anything is essential to the conduct of an inquiry into an offence known or suspected to have been committed, or to the discovery of the offender,

Search-warrant when grantable.

or when he considers that such inquiry or discovery will be furthered by the search or inspection of any place,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the jurisdiction of the Magistrate.

The Magistrate issuing such warrant may, if he see fit, specify in his warrant the place or part to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place or part so specified.

146. If any letter in the custody of the Postal Department is wanted for the purpose of any criminal proceeding, a Magistrate may, if he thinks fit, direct the postal authorities to deliver up any such letter.

Procedure as to letter in custody of Postal Department.

147. A search-warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing the warrant may, if immediate search is necessary and no Police-officer be immediately available, direct it to any other person.

Direction of search-warrant.

148. A search-warrant directed or endorsed to a Police-officer may, if he is not able to proceed in person, be executed by any other Police-officer.

Warrant to Police-officer may be executed by his subordinate.

In such case the name of such Police-officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

Endorsement.

149. When it is necessary for a search-warrant to be executed out of the Presidency town in which it was issued, any Magistrate within whose local jurisdiction the warrant is to be executed shall endorse his name thereon.

Execution of search-warrant out of district in which issued.

Such endorsement shall be sufficient authority for the Police-officer charged with the execution of the warrant to execute the same within the said jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose local jurisdiction the search is to be made; and he shall thereupon endorse his name on such warrant, and enforce its execution in the same manner as if it had been issued by himself.

150. Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose district the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the Police-officer charged with the execution of the warrant may execute the same, in any place beyond the district in which it was issued, without the endorsement of the Magistrate in whose local jurisdiction that place is situate.

Search-warrants may, in emergency, be executed without endorsement.

If the thing for which search is made is found in such place, it shall, when the place where the thing is found is nearer to the Magistrate having jurisdiction in such place than to the Magistrate who issued the warrant, be immediately taken before the Magistrate in whose local jurisdiction it is found; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Thing found to be taken to Magistrate within whose jurisdiction it is found.

Order thereon.

If the thing be not found after such search, the Police-officer making the same shall, in addition to the return made to the Magistrate who issued the warrant, report the fact to the Magistrate in whose local jurisdiction the search was made.

151. Whenever it appears necessary, a Magistrate may, by his warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

Magistrate may issue search-warrant to be executed in place out of his jurisdiction.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose local jurisdiction the place to be searched is situate.

152. A Magistrate issuing a search-wararnt to be executed in any place out of the jurisdiction of the Magistrate, may direct the warrant to any Magistrate within whose local jurisdiction such place is situate, and may send the same by post.

Magistrate may send search-warrant by post to Magistrate having jurisdiction.

On receipt of such warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

Endorsement and execution by such Magistrate.

In such case, any property found on search made may be dealt with as provided in section 150.

153. If the Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

Search of house suspected to contain stolen property or forged documents.

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid.

And if upon search thereupon made, such property, documents, stamps, seals, coins, instruments or materials be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate or otherwise dispose thereof in some place of safety; and moreover to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen, or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

154. The Magistrate by whom a search-warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may attend personally.

The Magistrate may also direct a search to be made in his presence, of any place for the search of which he is competent to issue a search-warrant.

Magistrate may direct search in his presence.

CHAPTER XVII.

BAIL.

155. When any person appears or is brought before a Magistrate accused of any bailable offence, he shall be admitted to bail.

When bail shall be taken.

156. When any person accused of any non-bailable offence appears or is brought before a Magistrate such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail not to be taken.

If the evidence given in support of the accusation is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

157. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused, and one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue to attend until otherwise directed by the Court, and, if required, shall appear when called upon at the High Court, to answer the charge.

Recognizance of accused and sureties.

158. If, through mistake or fraud, insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to give sufficient bail or to find sufficient sureties, and, in default, may be committed to prison.

Power to order sufficient bail when that first taken is insufficient.

159. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Admission to bail found after failure in first instance.

160. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some prison or other place of confinement, shall issue a warrant of release to the jailor or other person having him in his custody, and such jailor or other person shall thereupon release him.

Discharge on bail.

161. Any one or more of the sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

Discharge of sureties.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

162. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within the jurisdiction of the Magistrate, and it shall authorize the distress and sale of any moveable property belonging to the accused person, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate within whose jurisdiction such moveable property is situated.

163. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid and if no sufficient cause for its non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within the jurisdiction of the Magistrate. Such warrant may be executed within the jurisdiction of the Magistrate; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate within whose jurisdiction such moveable property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the civil jail, during a period not exceeding six months.

164. The powers given by sections 162 and 163 may be exercised by every Magistrate in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court, according to the conditions of such recognizance or bail:

In what cases powers given by sections 162 and 163 may be exercised.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in the recognizance of the party or witness, or of the surety or sureties, and enforce payment in part only.

Remission of part of penalty.

165. When any person is required by any Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

Deposit instead of bail.

CHAPTER XVIII.

LUNATICS.

166. When any person charged with an offence before a Magistrate appears to such Magistrate to be of unsound mind and incapable of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the civil surgeon of the district, or some other medical officer, and thereupon shall examine such civil surgeon or other medical officer as a witness, and shall reduce the examination into writing.

Procedure in case of accused being lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

167. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the High Court, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, such accused person shall, if he appears to be sane at the time of inquiry, be sent for trial by the Magistrate before the High Court.

When accused appears to have been insane.

If an accused person appears to be insane at the time of inquiry, the Magistrate shall act in the manner provided in the last preceding section.

168. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

Release of lunatic on security given.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

Custody when bail not given.

169. Whenever an inquiry or trial is postponed under section 166, the Magistrate may at any time resume the inquiry or trial, and require the accused person, if detained in custody, to be brought before such Magistrate; or, if the accused person has been released on security, may require his appearance.

Resumption of inquiry or trial.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Magistrate appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector-General of Prisons or the visitors of lunatic asylums, granted under section 174.

170. If, when the accused person appears or is again brought before the Magistrate, it appears to such Magistrate that the accused person is in a fit state of mind to make his defence, the inquiry shall proceed, or the accused person shall be put on his trial, as the case may require.

Procedure on accused appearing before Magistrate.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate shall again act according to the provisions of section 166.

171. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

Finding in case of acquittal on ground of being lunatic.

172. Whenever such finding states that the accused person committed the act charged, the Magistrate before whom the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Person found to have committed act charged to be kept in safe custody and report made to Government.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

173. When any person is confined under the provisions of section 168 or 172, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

174. If such person is confined under section 168, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 170; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

175. If such person is confined under the provisions of section 172, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 172 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as to it may seem fit.

Delivery of lunatic to care of relative.

176. Whenever any relative or friend of any person detained under the provisions of section 172 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that such person may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 173 and 175 shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XIX.

CONTEMPTS OF COURT.

Procedure in certain cases of contempt.

177. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of any Magistrate, the Magistrate may cause the offender to be detained in custody; and, at any time before the rising of the Magistrate on the same day, may take cognizance of the offence, and adjudge the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case, the Magistrate shall record the facts constituting the offence, with any statement the offender may make, as well as 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 Magistrate insulted or interrupted was sitting, and the nature of the interruption or insult offered.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

178. If the Magistrate in any case considers that a person accused of any such offence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate after recording the facts constituting the offence, and the statement of the accused person as before provided, shall forward the case to another Magistrate, and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or, if sufficient bail be not tendered, shall cause such person to be forwarded under custody to such Magistrate.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate; and may adjudge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

Any person convicted under this section may appeal to the High Court.

Discharge of offender on submission or apology.

179. When any Magistrate has adjudged an offender to punishment, or forwarded him to another 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 former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

CHAPTER XX.

OF THE CHARGE.

Form of Charges.

Charge to state offence.

180. The charge shall state the offence with which the accused person is charged.

Specific name of offence, sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the prisoner notice of the matter with which he is charged.

The Act and section or sections of the Act against which the offence is said to have been committed must be referred to in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the prisoner, the charge must be read to him in a language which he understands.

Previous conviction to be set out in charge.

If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting: this is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

181. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

182. When the nature of the case is such that the particulars mentioned in sections 180 and 181 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

183. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

184. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 182, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

185. Any accused person may apply to the Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.

Court may amend a charge.

186. The Court may, upon the application of the accused person, or of the prosecutor, or upon its own motion, amend or alter any charge at any stage of the proceedings before judgment is pronounced. Such amendment shall be read and explained to the accused person.

When trial may proceed immediately after amendment.

187. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When new trial may be directed or trial suspended.

188. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to

the case, or whom the accused person may wish to be summoned in his defence.

Prosecutor and accused person may recall witnesses.

189. In all cases of amendment or alteration of a charge, the prosecutor and accused person shall be allowed to recall and examine with reference to such amendment or alteration any witness who may have been examined.

Previous sanction to be obtained if offence in new charge require it.

190. If the offence stated in the new charge be one for which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the new charge was based.

Joinder of Charges.

Separate charges for distinct offences.

191. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

192. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

EXPLANATION.—Offences are said to be of the same kind under this section if they fall within the provisions of section 194.

I.—Trial of more than one offence.

193. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed, but he must not receive a more severe punishment than could be awarded for any of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed, but he must not receive for such offences, collectively, a punishment more severe than that which might have been awarded for any one of such offences.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for, the possession of each seal for a distinct forgery under section 473 of the Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d.*) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 or 195 of the Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant engaged in suppressing a riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g.*) A criminally intimidates B, C and D at the same time. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, three offences under section 302 of the Indian Penal Code.

To paragraph II.

(*i.*) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with, and convicted of, offences under sections 426 and 379 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 379 only.

(*j.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 323 only.

(*k.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 429 only.

(*l.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(*m.*) A uses a forged document in evidence, in order to convict B, a public servant, of an offence under section 167. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

To paragraph III.

(*n.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

(*o.*) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 392 or 394 only.

(*p.*) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

Where it is doubtful what offence has been committed.

194. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft, or criminal breach of trust, or cheating.

When a person is charged with one offence, he can be convicted of another.

195. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust, or receiving stolen goods. He may be convicted of criminal breach of trust, or receiving stolen goods, though he was not charged with it.

When offence proved included in offence charged.

196. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

What persons may be charged jointly.

197. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges, on conviction on one of several charges.

198. When more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government pleader or other officer conducting the prosecution may, with the consent of the Court, withdraw, or the Court of its own accord may suspend, the inquiry into the remaining charge or charges.

Previous Acquittals or Convictions.

Person once convicted or acquitted not to be tried for same offence.

199. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 194, or for which he might have been convicted under section 195.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 193, paragraph one.

A person acquitted or convicted of any offence in respect of any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence in respect of any facts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged, upon the same facts, either with theft as a servant, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged before the High Court and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(*f.*) A is charged by a Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three of this section.

(*g.*) A is charged by a Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*h.*) A, B and C are charged by a Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity, on the same facts.

CHAPTER XXI.

PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

200. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294 A of the same Code, shall not be entertained by any Magistrate, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution of Judges and public servants.

201. A complaint of an offence committed of which any Judge or any public servant not removeable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against him except with the sanction or under the direction of the Government, or of some officer empowered by the Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Government does not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the discharge of his duty, unless with the sanction of the Government.

Sanction when to be given.

The sanction must be given before the commencement of the proceedings.

Power of Local Government as to prosecution.

The Local Government may limit the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial is to be held.

In this section the expression "Government" means either the Local Government or the Governor General in Council and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

Prosecution for contempts of the lawful authority of public servants.

202. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179 or 180 of that Code, shall not be entertained by any Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

EXPLANATION.—In cases under this chapter, the report or application of the public servant shall be deemed sufficient complaint.

Sanction to prosecution for certain offences against public justice.

203. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be entertained by any Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

204. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be entertained against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Nature of sanction necessary.

205. The sanction referred to in sections 201, 202 and 203, may be expressed in general terms, and need not name the accused person and may be given at any time.

Such sanction may be given at any time, and a sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Magistrate to amend the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

EXPLANATION.—In cases under this chapter, the report or application of the public servant or Court shall be deemed sufficient complaint.

Procedure in cases mentioned in sections 201, 202 and 203.

206. When any Court, civil or criminal, is of opinion that there is sufficient ground for inquiring into any complaint mentioned in sections 201, 202 and 203, such Court, after making such preliminary inquiry as may be necessary, may either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Such Magistrate shall thereupon proceed according to law, and the Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

Prosecution for adultery.

207. A complaint of an offence under section 497 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

Prosecution for enticing away married woman.

208. A complaint of an offence under section 498 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

CHAPTER XXII.

OF SECURITY FOR KEEPING THE PEACE.

Personal recognizance to keep the peace in cases of conviction.

209. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Magistrate,

and the Magistrate by whom such person is convicted, or the Magistrate by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

such Magistrate may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year, with a provision that, if the same be not given, the person required to enter into the engagement shall be kept in simple imprisonment for any time not exceeding one year, unless within such period such person execute such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence when he is released on the expiration of his sentence.

In any case where the order is not made at the time of signing, or by the Magistrate who signs, the judgment, the convict must be produced before the Magistrate who adds the order to enter into a personal recognizance to the original sentence.

Security to keep the peace.

210. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Magistrate may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding one year.

Summons to person to show cause why he should not give bond to keep peace.

211. Whenever a Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate thinks fit.

EXPLANATION I.—A summons calling on a person to show cause why he should not be bound over to keep the peace, may be issued on any report or other information which appears credible and which the Magistrate believes; but the Magistrate cannot bind over a person until he has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may recall a summons issued under this section if he thinks proper.

Contents of summons.

212. Such summons shall set forth the substance of the report or information on which it is issued, the amount of the bond, and the term for which it is to be in force, and, if security is called for, the number of sureties required, and the amount in which they are to be bound respectively, and the time and place at which the person summoned is required to attend.

EXPLANATION.—When the parties are present in Court no summons is necessary, but the person to whom a summons would have been issued must have an opportunity to show cause why he should not be bound.

Form and penalty of bond.

213. The bond shall be in the form (E) given in the third schedule hereto annexed or to the like effect; and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

The amount in which the sureties shall be bound shall not exceed the penalty named in the bond.

When warrant of arrest may issue.

214. If the person summoned does not attend at the time and place named in the summons on the day appointed, such Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate may at any time issue a warrant for his arrest.

Magistrate may dispense with personal attendance of person informed against.

215. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 211 and may permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of person informed against.

216. If on the appearance of such person informed against, or of his agent if he is permitted to appear by agent, the Magis-

trate is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate shall direct his discharge.

217. If the Magistrate is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly.; and if such person fails to comply with the order, the Magistrate may order him to be kept in simple imprisonment until he furnish the same.

Order to give bond and consequence of non-compliance.

218. The period for which the Magistrate may bind a person to keep the peace, with or without security, shall not exceed one year.

Time for which person may be bound to keep peace.

When a person is imprisoned under section 217, he shall not be detained by authority of the Magistrate beyond the term of one year, and shall be released whenever, within that term, he complies with the order.

Limit of imprisonment under section 217.

219. Whenever it appears to a Magistrate that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Extension of time for which person is bound.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend the term for a further period not exceeding one year.

If such person fails to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate under the orders of the High Court, directs, he may be kept in simple imprisonment for such further period, or until, within that period, he gives such bond.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 211.

220. A Magistrate may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken by him, or by his predecessor, under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of recognizances.

221. A surety for the peaceable conduct of another person may at any time apply to a Magistrate to be relieved from his engagement as surety.

Discharge of sureties.

On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound may appear or be brought before him.

On the appearance of the person to such warrant, or on his voluntary surrender, the Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and, in default thereof, shall order him to be kept in simple imprisonment.

222. Whenever it is proved before a Magistrate that any recognizance or other bond taken under this chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by such recognizance or bond to pay the penalty thereof, or to show cause why it should not be paid.

Recovery of penalty from principal.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any of the moveable property belonging to the person bound by such recognizance or bond.

Such warrant may be executed within the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person bound, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such person shall be liable to imprisonment by order of the Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person bound has had an opportunity of showing cause, and until the breach of the conditions has been proved.

The commission, or attempt to commit or abetment, of any offence whatever, and wherever it may be committed, is a breach of the bond.

Proceedings under this chapter may be taken, either in the district in which the breach of the peace is apprehended, or where an offence has been committed in breach of the bond, or in any district where the person it is desired to bind may be.

223. Whenever it is proved before a Magistrate that any bond with a surety has been forfeited, the Magistrate may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

Recovery of penalty from surety.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

And in case such penalty cannot be so recovered, the surety shall be liable, by order of such Magistrate, to imprisonment in the civil jail for a period not exceeding six months.

CHAPTER XXIII.

OF SECURITY FOR GOOD BEHAVIOUR.

224. Whenever it appears to a Magistrate that any person is lurking within his jurisdiction, or that there is within his jurisdiction a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such security for such person's good behaviour for a period not exceeding six months as to him may appear good and sufficient.

When Magistrate may require security for good behaviour for six months.

If in any case under this or the two following sections, the person to be bound is under sentence for an offence, he must be brought up on or after the expiration of his sentence for the purpose of being bound.

Binding of sentenced person.

225. Whenever it appears to a Magistrate from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker or thief,

When Magistrate may require security for good behaviour for one year.

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood, or is a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

226. Whenever it appears to a Magistrate, from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker or thief,

Procedure where security required for more than one year.

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release without security, at the expiration of the limited period of one year, hazardous to the community,

he shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number, character and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour; and if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

227. If a person required to furnish security under the provisions of the last preceding section does not furnish the same, or offers sureties whom the Magistrate sees fit to reject, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass orders on the case, either confirming, modifying or annulling the orders of such Magistrate, as it thinks proper.

228. If the High Court does not think it safe to direct the immediate discharge of such person, it shall fix a period for his detention, not exceeding three years, in the event of his not giving the security required from him.

High Court may require security for period not exceeding three years.

229. Whenever security for good behaviour is required by the High Court or by a Magistrate the amount, the security, the number and description of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order.

Contents of order for security.

The security-bond shall be in the form (G) given in the third schedule hereto annexed or to the like effect.

Form of bond.

230. In the event of any person required to give security under the provisions of this Act failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Imprisonment in default of security.

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the Court or Magistrate in each case directs.

231. The Magistrate may at any time exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order, or that of his predecessor in office, provided he is of opinion that such person can be released without hazard to the community.

Release of prisoners under requisition of security.

232. Whenever a Magistrate is of opinion that any person confined under requisition of security for good behaviour, by order of the High Court, can be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Report in case of prisoner under requisition of security by order of High Court.

233. A surety for the good behaviour of a person may at any time apply to a Magistrate to be relieved from his engagement as such surety.

Discharge of surety.

On such application being made, such Magistrate shall issue his summons or warrant in order that such person may appear or be brought before him.

On the appearance of such person pursuant to such summons or warrant, or on his voluntary surrender, such Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and, in default thereof, shall commit him to custody.

234. Whenever a Magistrate is of opinion that, by reason of an offence proved to have been committed by a person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, such Magistrate shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

Recovery of penalty from sureties.

If such penalty be not paid and no sufficient cause for non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety by issuing a warrant for the attachment and sale of any moveable property belonging to him. Such warrant may be executed within the jurisdiction of the Magistrate by whom it is issued; and it shall authorize the distress and sale of any moveable property belonging to such surety, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment by order of a Magistrate of Police in the civil jail for a period not exceeding six months.

235. The provisions of sections 212 and 214, relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, when such party is not in custody, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

Issue of summons and warrant of arrest.

Proceedings may be taken under this chapter, against persons amenable to its provisions, in any district where they may be.

Place where proceedings may be held.

Any previous conviction against the person to be bound may be proved on proceedings held under this chapter.

Previous convictions may be proved.

236. A Magistrate may refuse to accept any surety offered under this chapter, on the ground that such surety is an unfit person.

Sureties may be rejected for unfitness.

237. The provisions of this chapter do not apply to European British subjects.

Provisions of chapter not to apply to European British subjects.

CHAPTER XXIV.

POSSESSION.

238. Whenever any person is convicted by a Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

Power to restore possession of immoveable property.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XXV.

OF THE MAINTENANCE OF WIVES AND FAMILIES.

239. If any person, having sufficient means, neglects or refuses to maintain his wife, or legitimate or illegitimate child unable to maintain himself, a Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as to such Magistrate seems reasonable.

Order for maintenance of wives and children.

Such allowance shall be payable from the date of the order.

If such person wilfully neglects to comply with this order, such Magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; and may order such person to be imprisoned, with or without hard labour, for any term not exceeding one month, for each month's allowance remaining unpaid:

Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by consent.

240. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 239, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit, provided the total sum of rupees fifty a month be not exceeded.

Alteration in allowance.

241. A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person, and shall be enforceable by any Magistrate in any place where the person to whom the order is addressed may be, on the Magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed.

Enforcement of order.

CHAPTER XXVI.

MISCELLANEOUS.

242. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Police Court.

Procedure in miscellaneous criminal cases and proceedings.

243. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by Magistrates and may be tried according to the provisions of this Act.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

244. The jurisdiction given to Magistrates under section 243 may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not; but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Magistrate before whom the offender is charged.

Extent of jurisdiction.

245. A Magistrate disposing of any complaint may award such costs as he thinks fit, to be paid to or by either of the parties, as he directs, and such costs shall be recoverable as if they were fines.

Power to award costs.

246. A Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to prison or release him on bail to appear for judgment when called upon.

Reference to High Court.

247. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit. A copy of the decision of the High Court, under the seal of the Court and the signature of the Registrar, shall be transmitted to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said decision, and shall also be empowered to direct by whom the costs of the reference shall be paid.

Disposal of case according to decision of High Court.

Direction as to costs.

248. When the inquiry or trial before any Magistrate is concluded, he may make such order as appears right for the disposal of any property produced before him, regarding which any offence appears to have been committed.

Order for disposal of property regarding which offence committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

249. Upon a conviction of any offence by means of or in consequence of which the possession of property has been transferred, the Magistrate may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner; and, in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same, a fine not exceeding the value of the said property, which the Magistrate may order to be paid to the owner or his representative.

Power to order restitution of property, or fine the offender.

250. If any property charged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Magistrate, or in prosecution of any charge of an offence in regard to the obtaining thereof, and the person charged with such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted, or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty, or if any property has been seized by a Police-officer under chapter XVI, it shall be lawful for any Magistrate to make an order for the delivery of such property to the party appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, then to make such order with respect to the property as the Magistrate thinks fit:

Power to order disposal of property connected with charge, in Police-custody.

Provided that no such order shall bar the right of any person to sue the party to whom the property is delivered, and to recover such property from him, so that the suit be commenced within two months next after such order has been made.

251. Subject to any rules that may be passed by the Local Government, with the previous sanction of the Governor General in Council, a Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

Expenses of complainants and witnesses.

SCHEDULE I.

ENACTMENTS REPEALED.

(SEE SECTION 2.)

Acts.

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and" Sections twenty-two, twenty-three, twenty-six to thirty one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-three, ninety-five to ninety-eight (both inclusive), one hundred to one hundred and three (both inclusive), one hundred and six, one hundred and eight, one hundred and ten and one hundred and eleven. In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, fifty-eight, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive).
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, seventy-nine, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive).
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 155 and 156 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto -	Ditto -	Ditto -	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	Not bailable-	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto -	Ditto -	Ditto -	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto -	Ditto -	Not bailable-	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto -	Ditto -	Not bailable-	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto -	Ditto -	Ditto -	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed - - -	Ditto -	Ditto -	Ditto -	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant -	Not bailable -	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto -	Ditto -	Ditto -	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection -	Ditto -	Ditto -	Ditto -	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto -	Ditto -	Ditto -	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto -	Ditto -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto -	Ditto -	Ditto -	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Or to go armed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 1 month, or fine of 100 rupees or both.	Ditto.

CHAPTER X.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade -	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant - -	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto	Ditto	Ditto	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto	Ditto	Ditto	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto	Ditto	Ditto	The same as for the offence	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto	Ditto	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for ten years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years...	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing appenhension of offender.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Imprisonment of either description for two years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death - -	May arrest without warrant.	Warrant -	Not bailable-	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation -	Ditto -	Ditto -	Not bailable-	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons -	Ditto -	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of Police.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant -	Not bailable -	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court of Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin. - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto -	Ditto -	Ditto -	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant.	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto -	Ditto -	Ditto -	Ditto - - - -	High Court.
245	Unlawfully taking from a Mint any coining instrument.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp	Ditto	Ditto	Bailable	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure	Ditto	Ditto	Ditto	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule -	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health -	Shall not arrest without warrant.	Ditto -	Ditto -	Fine of 500 rupees - -	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
281	Exhibition of a false light, mark, or buoy -	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto -	Ditto -	Ditto -	Fine of 200 rupees - -	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
286	So dealing with any explosive substance -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
287	So dealing with any machinery - -	Shall not arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of Rs. 1,000, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant	Not bailable	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant -	Not bailable	Death - - -	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for two years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto -	Ditto -	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine.	High Court.
306	Abetting the commission of suicide -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder - - -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If such act cause hurt to any person -	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
308	Attempt to commit culpable homicide -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide - -	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year and fine.	Magistrate.
311	Being a thug - - - -	Ditto -	Ditto -	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent -	Ditto -	Ditto -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent -	Ditto -	Ditto -	Ditto -	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
	Of Hurt.					
323	Voluntarily causing hurt - -	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto -	Ditto -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
329	Voluntarily causing grevious hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto -	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restraint and wrongful Confinement.

341	Wrongfully restraining any person	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault.—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto.	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences - - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft - - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion - - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence ...	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

Of Robbery and Dacoity.

392	Robbery - - - -	May arrest without warrant.	Warrant -	Not bailable	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery -	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto -	Ditto -	Ditto -	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity - - - -	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court.

396	Murder in dacoity - - -	Ditto -	Ditto -	Ditto -	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
399	Making preparation to commit dacoity -	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
468	Forgery for the purpose of cheating -	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto -	Ditto -	Ditto -	Punishment for forgery - -	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Not bailable	Ditto - - -	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If the document is a valuable security or will -	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*concluded.*

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery - - - -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation - - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto	Ditto	Bailable	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant	Not bailable	.....	High Court.
If punishable with imprisonment for three years and upwards but less than seven.	Ditto	Ditto	Ditto	.....	High Court or Magistrate.
If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons	Bailable	.....	Magistrate.
If punishable with fine only	Ditto	Ditto	Ditto	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 37).

To *A. B.*, of

Whereas your attendance is necessary to answer to a complaint of (*state shortly the offence complained of*) : You are hereby required to appear in person or by authorized agent, as the case may be, before the [Magistrate] of on the day of . Herein fail not.

(*Signature and Seal.*)

Dated the day of

B.

FORM OF WARRANT (*section* 46).

To (*name and designation of the person or persons who are to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him before me. Herein fail not.

(*Signature and Seal.*)

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY. (*section* 106).

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

D.

FORM OF WARRANT OF COMMITMENT (*section* 106).

To , the officer in charge of the Jail

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*), and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*) : You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

E.

FORM OF BOND TO KEEP THE PEACE (*section* 213).

Whereas I, , inhabitant of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*section* 139).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer ; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF BOND FOR GOOD BEHAVIOUR (*section* 229).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 183).

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

On Penal Code, section 121.

(*b.*) That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

[*To be substituted for* (*b*)].

On section 124.

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(3). That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(5.) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(6.) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(9.) That you, on or about the day of , at did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 193.

(10.) That you, on or about the day of at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[*In cases tried by Magistrates, substitute* " within my cognizance" *for* " within the cognizance of the High Court." *In* (*d*), *omit* " by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a.*) I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

On Penal Code, sections 241 and 242.

(*b.*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

On sections 302 and 304.

For (*b*). *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before , stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the High Court;" *and omit* "by the said Court."

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd February 1876, and was referred to a Select Committee with instructions to make their report thereon in one week:—

No. 3 OF 1876.

A Bill to extend the Criminal Tribes Act, 1871, *to the Lower Provinces of Bengal.*

WHEREAS it is expedient to extend Act No. XXVII of 1871 *(for the Registration of Criminal Tribes and Eunuchs)* to the Lower Provinces of Bengal; It is hereby enacted as follows:—

Preamble.

1. Section one of the said Act shall be read as if, after the words "Lieutenant-Governors of," the following word were inserted (namely):—"Bengal."

Extension of section 1, Act XXVII of 1871, to Lower Provinces of Bengal.

STATEMENT OF OBJECTS AND REASONS.

For the last four years the Criminal Tribes Act has been in force in the North-Western Provinces, the Panjáb and Oudh; and the result has been a satisfactory diminution in the number of the offences against which the provisions of that Act are directed. The object of the present Bill is to extend those provisions to the Lower Provinces of Bengal, in parts of which there is reason to fear that there are, if not tribes, at least gangs and classes of persons addicted to the systematic commission of non-bailable offences.

CALCUTTA, *The 10th February* 1876. } R. TEMPLE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 11, 1876. { Register No. 75.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd February 1876, and was referred to a Select Committee with instructions to make their report thereon in one week:—

No. 3 OF 1876.

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WHEREAS it is expedient to extend Act No. XXVII of 1871 *(for the Registration of Criminal Tribes and Eunuchs)* to the Lower Provinces of Bengal; It is hereby enacted as follows:—

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CALCUTTA, *The 10th February* 1876. } R. TEMPLE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 18, 1876. { Register No. 75.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th March 1876, and was referred to a Select Committee with instructions to make their report thereon in a week :—

No. 4 OF 1876.

A Bill to provide for the management of the Public Museum at Calcutta.

Preamble.

WHEREAS, by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of a Public Museum at Calcutta to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors were constituted a Body Corporate by the name of the Trustees of the Indian Museum, and the said Trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the purposes of their trusts therein mentioned; and it was also enacted that the said Trustees should have the exclusive possession, occupation and control, for the purposes of such trusts, of the said building, other than those portions thereof which upon its completion should be set apart by the said Trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust property, should be appointed, and might be removed or suspended, by the said Trustees, subject to such regulations and conditions as the said Trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society and illustrative of Indian Archæology and the several branches of Natural History and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed as far to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said Trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said Trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures and engravings which they then possessed, and that the Council of the said Society should have the exclusive

possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their Library and other property thereinbefore mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said Trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said Trustees;

And whereas the said Trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control secured to them by the said Act of the portions of the said building which, under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said Library and other property;

And whereas it is expedient to increase the number of Trustees constituting the said Body Corporate and to amend the law relating to the appointment and salaries of the said officers:

And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Museum Act, 1876."

Repeal of Act No. XVII of 1866.

2. Act No. XVII of 1866 (*to provide for the establishment of a Public Museum at Calcutta*) shall be repealed. But all persons nominated under the said Act as Trustees of the Indian Museum, and all officers and servants appointed under the same Act, and now holding office shall be deemed to have been respectively nominated and appointed under this Act.

Incorporation of the Trustees.

Trustees of the Indian Museum incorporated.

3. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in such Department as the Governor General in Council from time to time directs in this behalf,

the Accountant General,

five other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and four other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist seven Members thereof.

Ex-officio Members.

4. The persons for the time being holding the offices respectively mentioned in section three shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively.

Provision in case of two offices being held by one person.

In the event of any two of the said offices being held by the same person, the Governor-General in Council may from time to time nominate such other person as he thinks fit to be a Trustee under this Act so long as the said two offices are held by one person:

Provided that whenever the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India, Accountant General, or Superintendent of the Geological Survey of India is also the President of the said Society, the Council of the said Society may nominate any other person being a Member of the said Society to be a Trustee under this Act so long as such Presidency is held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary, Accountant General, or Superintendent.

Power to appoint new Trustees.

5. If any of the said Trustees to be nominated by the Governor-General in Council or by the Council of the said Society, or any Trustee appointed as herein provided, dies or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, then and in every such case the Governor-General in Council or the Council of the said Society, as the case may be, may appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid,

and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Powers of the Trustees.

Trustees empowered to receive bequests, donations and subscriptions.

6. It shall be lawful for the said Trustees (*a*) to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (*b*) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Indian Museum, and otherwise for the purposes of the same Museum;

and all such collections shall become the property of the said Trustees for the purposes of their trusts herein mentioned;

and the said Trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been

set apart by the said Trustees for the records and offices of the Geological Survey of India.

Power to Trustees to make bye-laws.

7. The said Trustees may from time to time make bye-laws consistent with this Act—

(*a*) for the management of the said Museum,

(*b*) for the summoning, holding and adjournment of General and Special Meetings of the said Trustees,

(*c*) for securing their attendance at such meetings,

(*d*) for the provision and keeping of minute-books and account-books,

(*e*) for the compiling of catalogues, and

(*f*) for all other purposes necessary for the execution of their trust.

Power to Trustees to appoint officers and servants.

8. Subject to such regulations and conditions as the Trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust property: provided—

(*a*) that no officer be appointed without the approval of the Governor-General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India;

(*b*) that no new office be created and no salaries of officers shall be altered without the previous sanction of the Governor-General in Council.

Trustees may exchange or sell duplicates.

9. The said Trustees may from time to time order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books, or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Quorum.

10. At all meetings of the said Trustees five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Duties of the Trustees.

Trustees shall furnish annual reports and accounts.

11. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor-General in Council appoints in this behalf accounts of all moneys expended by the Trustees during the past twelve months, supported by the necessary vouchers.

The said Trustees shall cause such report and accounts to be annually published for general information.

Collections of Asiatic Society to be kept distinguished in the Museum.

12. The said Trustees shall cause every article in the said collections belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section six, to be marked and numbered, and (subject to the provisions contained in sections nine and fifteen) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said Trustees, and delivered to the said Society, and another copy shall be signed by the Council of the said Society, and delivered to the said Trustees, and shall be kept by them along with the inventory already delivered to the said Trustees as aforesaid.

Articles received in exchange and moneys paid on sale to be held on trust.

13. All objects taken in exchange under section nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trust and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Miscellaneous.

Officers under Act to be public servants.

Their salaries, pensions and leave.

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India.

In case of determination of trust, Asiatic Society may reclaim their collections.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section twelve shall become the property of the said Society or their assigns.

STATEMENT OF OBJECTS AND REASONS.

Pursuant to Act XVII of 1866, the Government has erected a suitable building for the Indian Museum, and the collections of the Asiatic Society have been removed to that building. But the Council of that Society has relinquished the exclusive possession of the portions of the building which, under Act XVII, were to be set apart for their accommodation. It has also been found desirable to increase the number of Trustees fixed by that Act, and to amend the law relating to the appointment and salaries of their officers.

The present Bill, accordingly, repeals Act XVII and re-enacts it with certain changes, of which the following are the chief:—

(*a*) the number of Trustees is raised from thirteen to sixteen:

(*b*) no officer will be appointed without the approval of the Governor-General in Council or of the Secretary of State in Council:

(*c*) no new office will be created and no salary altered without the previous sanction of Government:

(*d*) so far as regards salaries, pensions and leave, the officers of the Museum will be subject to the rules applicable to the Uncovenanted Civil Service:

(*e*) the provisions of Act XVII securing to the Asiatic Society possession of certain parts of the Museum building have been omitted.

CALCUTTA,
26th February 1876.

E. C. BAYLEY.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th March 1876:—

We, the undersigned Members of the Select Committee to which the Bill for constituting and regulating the Banks of Bengal, Madras and Bombay was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Financial Department, No. 2795, dated 1st December 1875.
From ditto, No. 54, dated 6th January 1876.
From Secretary and Treasurer, New Bank of Bombay, Limited, No. 189, dated 12th January 1876, and enclosure.
From Secretary and Treasurer, Bank of Madras, dated 24th January 1876.
From Secretary to Government of Bengal, No. 366, dated 7th February 1876, and enclosures.
Remarks by J. W. Lowe, Esq., Barrister-at-law.
From Financial Department, No. 918, dated 12th February 1876.
From Secretary and Treasurer, Bank of Bombay, Limited, No. 929, dated 17th February 1876, and enclosures.
From Government of Madras, No. 314, dated 14th February 1876, and enclosures.

Preamble.

2. Since the Bill was introduced, the directors of the Bank of Madras have bought 62½ of their shares with a view of cancelling them, and thus reducing the capital of that Bank to five millions of rupees. We have made the changes in the preamble and the body of the Bill which this transaction rendered necessary.

Preliminary.

3. We have substituted the 1st May for the 1st March, 1876, as the day on which the proposed Act is to come into force.

Constitution.

4. To preclude doubts which have been felt but which we do not ourselves feel, we have expressly declared that the proprietors of the Banks shall not be liable for the corporate debts, and that the shareholders shall be so liable only to the extent of their shares not fully paid up.

5. We have transcribed from the Indian Companies Act, X of 1866, section 42, a clause which relates to corporate contracts and dispenses with the necessity of a seal in ordinary cases. Similar provisions are contained in several English statutes.

Business.

6. We have authorized the Banks to advance on the security of stock of the United Kingdom. We have also permitted them to undertake, and charge for, the care of valuable articles such as plate, jewels and title-deeds. In the clause limiting unsecured loans to individuals, we have substituted for Rs. 6,00,000 such sum as may from time to time be prescribed by the bye-laws. This will enable the maximum for each Bank to be adapted, with the previous sanction of the Governor General in Council, to the varying circumstances of the three Presidencies. We have forbidden the Banks not merely to discount, but to buy, or advance and lend, or open credits on negotiable paper payable where it is presented for the purpose of the proposed transaction, which does not carry on it the several responsibilities of at least two persons or firms unconnected in general partnership, or which has a longer period to run than three months.

7. We have extended the power to acquire business-premises so as to enable the directors to provide residences for their Agents.

8. We have made the restrictive provision as to the Agency of the Bank of Bengal now established at Bombay applicable, *mutatis mutandis*, to agencies of the Bank of Bombay which may be established at Calcutta and Madras, and to agencies of the Bank of Madras which may be established at Calcutta and Bombay.

9. We have struck out the power to purchase the business of other Banks.

Capital.

10. We think that the shareholders required to be present at a meeting authorising the reduction or the increase of capital need not be more than one-third of the total number.

Transmission of Shares.

11. We have struck out the clause (30) which exempts the Banks from recognizing probates and letters of administration granted by any Court other than a High Court. There is no reason why in this respect bank-shares should be treated as different from other assets. We have also withdrawn the power of the directors to say that of joint proprietors the first named in the register shall not be deemed the sole proprietor.

Directors.

12. We think that a director should not be disqualified by being Manager, &c., of any other Bank, unless where such Bank is a joint-stock Bank. It is undesirable, especially in Madras, to exclude members of mercantile firms which carry on banking business.

13. We have provided that the office of director shall be vacated in case of his resignation, and we have struck out the power to supply a vacancy in case of a director's temporary absence exceeding one month.

14. We have inserted the usual clause indemnifying directors against losses incurred in the discharge of their duties, except such as happen from their wilful act, and relieving them from responsibility for the other directors, &c., of the Bank.

Officers of the Bank.

15. We have empowered the directors not merely to fix the salaries of their officers and clerks, but to grant them pensions and other emoluments.

16. We have provided for the delegation to the Agents, &c., of the power to endorse and transfer securities, &c., held by the Bank.

17. We have altered the prohibition to engage in business other than the business of the Bank so as to allow the Bank's Agents, with the previous sanction of the Board, to act for insurance offices, &c.

Reserve Fund.

18. We have omitted the words expressly authorizing the directors to maintain and repair the Bank buildings out of the reserve fund. Such repairs are now effected, at all events in the case of the Bank of Bengal, out of the income of the Bank, and we think that the practice should continue.

Auditors.

19. We have struck out the clause prohibiting the election as auditor of any person interested otherwise than as a proprietor, shareholder or depositor in any transaction of the Bank. The clause seemed unnecessarily stringent, and might have caused inconvenience in Madras, where, we are informed, comparatively few persons fit to audit can be found.

Meetings.

20. As no Native newspapers are published daily in Madras, we have omitted the word 'daily' in the clause requiring advertisements in vernacular newspapers.

21. We have provided that notices of special meetings for the purpose of increasing or reducing capital shall be served on every shareholder.

22. We have raised from seven to twelve the maximum number of votes to which a shareholder shall be entitled; but we think that when a shareholder's interest exceeds Rs. 50,000, nothing less than shares amounting to Rs. 25,000 should give him an additional vote.

23. We think that general powers-of-attorney should be deemed to be proxies for the purpose of voting at any Bank-meeting.

Notices.

24. We have provided that shareholders changing their names or residences, and the husbands of female shareholders marrying, shall not be entitled to recover dividends or to vote until notice of the change or marriage be given to the Bank.

Bye-laws.

25. We have modified the section relating to bye-laws so as to require the directors at once to make rules as to (*a*) the maximum amount which may be advanced without security to any individual or firm by way of discount or otherwise, (*b*) the circumstances under which alone advances may be made to directors or their relatives, partners, &c., and (*c*) the particulars to be contained in the half-yearly balance-sheet. We have omitted the power to make bye-laws as to the proportion which the reserve fund must bear to the paid-up capital at the time of declaring or paying any dividend. We have also omitted the power to make bye-laws which the Bill as introduced gave the proprietors and shareholders. This, we think, is a power which should be conferred only on the directors.

26. We have made some transpositions and verbal changes, and recommend that the Bill thus altered be passed. But, first, we think that it should be republished in the *Gazette of India*.

27. The publication ordered by the Council has taken place.

6th March 1876.

W. MUIR.
A. HOBHOUSE.
A. J. ARBUTHNOT.
T. C. HOPE.
D. COWIE.
NARENDRA KRISHNA.
J. R. BULLEN SMITH.

I have signed this Report subject to the following reservations:—

I regret the relegation to a bye-law of the pecuniary limit on advances to one individual or firm, which Sir W. Muir informed the Council had been inserted after careful deliberation, and the more so, in that no power is reserved to the Government to compel the modification of any bye-law which it has once sanctioned, and it will probably even be precluded, by the agreement contemplated in section 36 (*o*), from withdrawing its own balances for a fixed term of years. The case of the old Bank of Bombay, and Sir Charles Jackson's report on it, have shown the wisdom of specific restrictions in the law in anticipation of exceptional occasions, when the vision of even the best men is in danger of being obscured, and immense pressure alone can force measures of prudence in the teeth of popular opinion.

Considering the controversy which the establishment of the branch of the Bank of Bengal has occasioned, I think it would have been only reasonable to have inserted in section 42 an express permission to the Banks of Bombay and Madras to open branches in the other Presidency towns respectively. The argument that it is unnecessary to limit the discretion of the Governor General in Council in the matter is deprived of force by the insertion, for the benefit of the Bank of Bengal, of the clause limiting that discretion in respect of the business which such branches, if established, may transact.

I object to the proprietors and shareholders being deprived of their power of making bye-laws for the direction of the affairs of the Bank. The directors become practically absolute.

T. C. HOPE.

No. II.

THE PRESIDENCY BANKS BILL, 1876.

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SCHEDULE.

A Bill for constituting and regulating the Banks of Bengal, Madras and Bombay.

WHEREAS the Bank of Bengal is now constituted and regulated by Act No. IV of 1862, as amended by Acts No. VI of 1862 and No. XIX of 1870, and its capital consists of twenty-two millions of rupees, in shares of one thousand rupees each; Preamble.

And whereas the Bank of Madras is now constituted and regulated by Madras Act No. VI of 1866, as amended by Madras Act No. I of 1871, and its capital consists of five millions six hundred and twenty-five thousand rupees, in shares of one thousand rupees each;

And whereas a Bank named the Bank of Bombay was constituted and regulated by Bombay Act No. X of 1863, as amended by Bombay Acts No. XV of 1866 and No. I of 1867; but such Bank has been wound up and the said Bombay Acts are now obsolete and should be expressly repealed;

And whereas on the tenth day of December 1867, a joint-stock Banking Company was registered and incorporated at Bombay, by virtue of the Indian Companies' Act, 1866, under the name of "The New Bank of Bombay, Limited," with a Memorandum of Association and Articles of Association then also registered, and prescribing the constitution and regulations for the management of such Bank;

And whereas the Government of India now holds two thousand two hundred shares in the said Bank of Bengal, and five hundred and sixty-two and a half shares in the said Bank of Madras; and, under the provisions of the said Acts, No. IV of 1862 and Madras Act No. VI of 1866, is bound to appoint, and has power to remove, certain of the directors of the said Banks of Bengal and Madras respectively, and has also power to give a proxy to any person whom the Governor General in Council may appoint, to attend and vote at any meeting of the proprietors of each of the same Banks;

And whereas the Government of India has determined to sell its said shares and to surrender its said powers; and it is expedient to relieve the said Government from the said duty of appointing directors, and to repeal the said enactments and to consolidate such of them as relate to the said Banks of Bengal and Madras respectively with the changes rendered necessary or desirable by such sale, surrender and relief;

And whereas it is expedient to reduce the said capital of the Bank of Bengal by two millions of rupees and to reduce the said capital of the Bank of Madras by six hundred and twenty-five thousand rupees, and to divide the capital so reduced of each of the same Banks into shares of five hundred rupees each;

And whereas it is expedient that the said New Bank of Bombay, Limited, should be reconstituted and regulated, in manner in this Act provided, under the name of the Bank of Bombay;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Presidency Banks Act, 1876;" Short title.

And it shall come into force on the first day of May 1876. Commencement.

2. On and from that day the statute specified in the first part of the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof, and the Acts specified in the second, third and fourth parts of the same schedule shall be wholly repealed. But all bye-laws and regulations made under any such Act, and then in force, shall, so far as they are consistent with this Act, be deemed to have been made hereunder. Repeal of enactments.

The references made in the Indian Companies' Act, 1866, to the Bank of Bengal, the Bank of Madras and the Bank of Bombay, shall be deemed to be made respectively to the Bank of Bengal, the Bank of Madras and the Bank of Bombay as constituted by this Act.

References in Act X of 1866.

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

Interpretation-clause.

"The Bank" means the Bank of Bengal, the Bank of Madras, or the Bank of Bombay (as the case may be), as constituted and regulated by this Act:

"Capital" means the capital for the time being of the Bank:

"Shares" means the shares for the time being of the capital, and includes also half shares:

"Capital Stock" means that part of the capital into which wholly paid-up shares have been converted or consolidated, and in the case of the Bank of Bengal and the Bank of Madras includes the present consolidated stock of such Banks respectively:

"Registered" means registered in the books of the Bank:

"Shareholders" means the duly registered holders from time to time of the shares of the Bank:

"Proprietors" means the duly registered holders from time to time of the capital stock of the Bank:

"Directors" means the Directors assembled for the purpose of performing any of their functions under this Act:

"Board" means a meeting of the Directors duly called and constituted, or, as the case may be, the Directors assembled at a Board:

"Auditors" and "Secretary" mean those respective officers from time to time of the Bank, and "Secretary" includes a Secretary and Treasurer and a Deputy Secretary:

"General Meeting" means the meeting of proprietors or shareholders or both, held annually under section forty-nine; it includes any adjourned holding thereof:

"Special Meeting" means a meeting of proprietors or shareholders or both, held for the transaction of some particular business specified in the notice convening the meeting; it includes any adjourned holding thereof:

"Special Resolution" means a resolution passed at a special meeting:

"Office" means the office or principal office for the time being of the Bank:

"Goods" includes also bullion, wares and merchandize:

"Presidency of Fort St. George" means the territories now under the government of the Governor of Fort St. George in Council:

"Presidency of Bombay" means the territories now under the government of the Governor of Bombay in Council; and

"Presidency of Fort William" means all the territories in British India other than the Presidency of Fort St. George and the Presidency of Bombay.

CHAPTER II.

CONSTITUTION.

4. The several persons who, when this Act comes into force, are respectively the proprietors and shareholders of the said Bank of Bengal, Bank of Madras and New Bank of Bombay, Limited (hereinafter called the present Banks), or who shall, at any time thereafter, by virtue of this or any other Act regulating the Bank, become proprietors or shareholders, shall continue and constitute and be bodies corporate with perpetual succession, under the name,

Proprietors and shareholders of present Banks to form bodies corporate.

in the case of the proprietors and shareholders of the said Bank of Bengal—of "The Bank of Bengal,"

in the case of the proprietors and shareholders of the said Bank of Madras—of "The Bank of Madras,"

and in the case of the shareholders and proprietors of the said New Bank of Bombay, Limited—of "The Bank of Bombay,"

and shall respectively possess and enjoy all the rights, powers and immunities incident by law to a corporation aggregate; subject, nevertheless, to the provisions of this or any other Act for the time being in force regulating the Bank,

and, in particular, the proprietors of the Bank shall not be liable for its debts and engagements, and the shareholders of the Bank shall be so liable only to the extent of their shares not fully paid up.

with limited liability.

The several persons who are then proprietors and shareholders of each of the present Banks of Bengal and Madras, or the executors or administrators of such proprietors and shareholders respectively, shall be entitled to be registered as proprietors and holders of a like quantity of stock and a proportionate number of shares, as is or are then registered in their names respectively, or in the names of the persons whom they represent respectively in the books of each of the said present Banks of Bengal and Madras, two shares in the Bank of Bengal as constituted by this Act being deemed equivalent to one share in the present Bank of Bengal, and two shares in the Bank of Madras as constituted by this Act being deemed equivalent to one share in the present Bank of Madras,

Proprietors and shareholders of present Banks to be proprietors and shareholders of new Banks.

and the several persons who are then shareholders of the said New Bank of Bombay, Limited, or the executors or administrators of such shareholders respectively, shall be registered as holders of a like number of shares of the Bank of Bombay as constituted by this Act as are then registered in their names respectively, or in the names of the persons whom they represent respectively, in the books of the said New Bank of Bombay, Limited; and all such shares upon which the sum of five hundred rupees has then been paid, shall be deemed to have been fully paid up.

5. All the property, moveable and immoveable, and all the securities, claims and demands, and the benefits of all agreements, of or to which the present Banks are or shall be respectively possessed or entitled, or which shall, or but

Property of present Banks to vest respectively in new Banks.

for this Act might be, on the said first day of May 1876, or might at any time thereafter have been, due to, or claimed by, the said Banks respectively shall, by virtue of this Act, become vested in and devolve upon, and may be claimed, made and recovered by,

in the case of the said Bank of Bengal,—the Bank of Bengal as constituted by this Act,

in the case of the said Bank of Madras,—the Bank of Madras as constituted by this Act,

and in the case of the said New Bank of Bombay, Limited,—the Bank of Bombay as constituted by this Act;

and the Bank shall, from and after the said first day of May 1876, be liable and subject to all debts, claims and demands which shall then be due or claimable from, or which, but for this Act, might be then, or might at any time thereafter, have been due or claimable from or made against the said Bank of Bengal, Bank of Madras or New Bank of Bombay, Limited, as the case may be,

Claims against present Banks.

and no suit or legal proceeding then pending by or against the said Bank of Bengal, Bank of Madras or New Bank of Bombay, Limited, shall cease, or abate, or become defective, in consequence of this Act, but may be continued and prosecuted by or against the Bank.

6. The transfer of the assets and liabilities of the said New Bank of Bombay, Limited, to the Bank of Bombay by virtue of this Act, shall operate as a winding up and liquidation of the said New Bank of Bombay, Limited.

New Bank of Bombay, Limited, wound-up.

No shareholder or creditor of the said New Bank of Bombay, Limited, shall take any proceedings for winding-up the same under the Indian Companies Act, 1866, or any Act for the time being in force relating to the winding-up of Companies;

and no person shall make, assert or take any claims, demands or proceedings against the same Bank, or the directors or officers thereof, except so far as may be necessary for enforcing the provisions of this or any other Act for the time being in force regulating the Bank of Bombay.

7. The Bank shall sue and be sued by its said corporate name;

Banks to sue and be sued in corporate name,

and shall use such corporate seal as the directors from time to time appoint;

and use corporate seals;

and may as such body corporate acquire and hold, either absolutely or conditionally, for a term or in perpetuity, any property whatsoever, moveable or immoveable, and transfer, assign and convey the same.

and may hold and transfer property.

8. The seal of the Bank shall not be affixed to any instrument except in the presence of at least two directors and of the Secretary and Treasurer, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Seal how used.

Unless so signed as aforesaid, such instrument shall be of no validity.

9. Contracts may be made on behalf of the Bank as follows:—

Contracts how made.

(*a*) any contract, which, if made between private persons, would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Bank in writing under its corporate seal, and such contract may be in the same manner varied or discharged:

(*b*) any contract, which, if made between private persons, would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Bank by writing signed by any person acting under the express or implied authority of the Bank, and such contract may in the same manner be varied and discharged:

(*c*) any contract, which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Bank by any person acting under the express or implied authority of the Bank, and such contract may in the same manner be varied and discharged;

and all contracts made according to the provisions herein contained shall be effectual in law and shall be binding upon the Bank and other parties thereto and their legal representatives.

CHAPTER III.

CAPITAL.

10. The capital of the Bank of Bengal shall consist of twenty millions of rupees in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to thirty millions of rupees.

Capital of Bank of Bengal.

The capital of the Bank of Madras shall consist of five millions of rupees, in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twelve millions of rupees.

Capital of Bank of Madras.

The capital of the Bank of Bombay shall consist of ten millions of rupees in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twenty millions of rupees.

Capital of Bank of Bombay.

11. The capital of the said New Bank of Bombay, Limited, already created, shall, on the first day of May 1876, constitute the capital of the Bank of Bombay, subject to be increased as aforesaid.

Capital of New Bank of Bombay, Limited, to be capital of Bank of Bombay.

12. Any shareholder may from time to time surrender his wholly paid-up shares, or any of them, to the directors, and demand and receive from the Bank, in lieu thereof, capital stock to the amount represented by the shares so surrendered,

Surrender of paid-up shares for stock.

and any proprietor may from time to time surrender his stock, or any portion thereof, to the directors, and demand and receive from the Bank in lieu thereof shares to the like amount, or as near thereto as practicable.

Surrender of stock for shares.

13. The proprietors and shareholders of the Bank may from time to time by special resolution and with the previous sanction of the Governor General in Council increase or reduce the capital of the Bank:

Power to increase or reduce capital.

Provided that no such special resolution shall be deemed to have been passed, unless at least one-third in number of the proprietors or shareholders, holding at least one-half of the paid-up capital of the Bank for the time being, be present in person or by proxy, and a majority poll by open voting in favour of the said resolution.

14. When any such special resolution to increase the capital has been passed, the directors may, subject to the provisions of this or any other Act for the time being in force regulating such Bank, and to the special direction (if any) given in reference thereto by the meeting at which such resolution has been passed,

Procedure on resolution to increase capital.

(*a*) make such orders as they think fit for the opening of subscriptions towards such increase of capital by the proprietors and shareholders;

(*b*) allow to the proprietors and shareholders such period to fill up the subscription as to the directors seems fit;

(*c*) prescribe the manner in which the proprietors and shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe; and

(*d*) make such orders as the directors think fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in manner aforesaid:

Provided that the capital shall not exceed, in the case of the Bank of Bengal, thirty millions of rupees, in the case of the Bank of Madras, twelve millions of rupees, and in the case of the Bank of Bombay, twenty millions of rupees.

15. When any such special resolution to reduce the capital has been passed, the directors may (subject as aforesaid) prescribe the manner in which the reduction shall be carried into effect.

Procedure on resolution to reduce capital.

16. Any new capital created under the provisions of section thirteen shall be subject to the provisions of this or any other Act regulating the Bank in force for the time being.

New capital to be subject to provisions of Act.

CHAPTER IV.

FORFEITURE OF STOCK AND SHARES.

17. If any proprietor or shareholder is indebted to the Bank, the Bank may withhold payment of the dividends on the stock or shares of such proprietor or shareholder not being registered as held in trust, or as executor or administrator, and apply them in payment of the debt;

Powers in regard to proprietors or shareholders indebted to Bank.

and the Bank may refuse to register the transfer of any such stock or shares until payment of such debt;

and after demand and default of payment, and notice in that behalf given to such proprietor or shareholder, or his constituted agent, or by public advertisement in the local official Gazette, if the debt remain unpaid for the space of three months after such notice, the Bank may advertise in the local official Gazette such stock or shares for sale on a day not less than fifteen days from the publication of such advertisement;

and may, on such day, sell by public auction, and subject to such conditions, if any, as the Bank thinks fit, such stock or shares, or so much or so many thereof as may be necessary, and apply the proceeds thereof in or towards payment of the said debt, with interest, from the day appointed for the payment of such debt to the time of actual payment, at such rate as may have been agreed upon, or, in the absence of such agreement, at the highest rate current for advances by way of local discounts by the Bank;

and shall pay over the surplus, if any, to such proprietor or shareholder or to his lawful representative.

CHAPTER V.

CERTIFICATES, TRANSFER AND TRANSMISSION OF SHARES AND STOCK.

18. Every shareholder shall be entitled to a certificate, under the corporate seal of the Bank, and signed by two Directors and the Secretary and Treasurer, specifying the shares held by him, and in the case of shares which are not wholly paid up, the amount paid thereon,

Certificates for shares.

and any holder of more than one half share may, at his option, demand a certificate for each such half share, or one or more certificates for all or any of such half shares, and such certificate or certificates shall be delivered to him accordingly: provided that the number of such certificates shall in no case exceed the number of half shares in respect of which they are so delivered.

Every proprietor of capital stock shall be entitled to a receipt signed by two Directors and the Secretary and Treasurer, and specifying the amount of stock held by him and any such proprietor may, at his option, demand one receipt for the whole of the stock, or separate receipts for any portions of the stock, so held by him, and such receipt or receipts shall be delivered to him accordingly: Provided that no receipt shall be delivered for a portion of stock less than two hundred and fifty rupees.

Receipts for stock.

For every certificate and receipt delivered under this section there shall be paid such fee as may for the time being be prescribed under section sixty-three, clause (*b*): Provided that no fee shall be payable for certificates or receipts delivered to the persons referred to in section four for shares in or stock of the Bank.

Fees for certificates and receipts.

Every such certificate and receipt shall be *primâ facie* evidence of the title of the shareholder or proprietor to the shares or stock therein specified.

Certificates and receipts to be evidence.

19. The stock and shares of every proprietor and shareholder shall be moveable property, capable of being transferred in manner provided by the regulations contained herein, or in any other Act regulating

Stock and shares to be moveable property.

the Bank for the time being in force, and shall not be of the nature of immoveable property; and each share shall be distinguished by its appropriate number.

20. Every transfer of stock or shares may be by endorsement on the certificate or in such other form as the Board from time to time may approve, and shall be presented to the Bank accompanied by such evidence as the Board may require to prove the title of the transferor.

Form of transfer to be approved by Board.

Every such transfer shall be verified in such manner as the Board require, and the Board may refuse to register any such transfer until the same be so verified, and, in the case of shares not fully paid up, unless the transferee is approved by the Board.

Board may require evidence of transmission.

The transferor shall be deemed to remain the proprietor or holder of the stock or shares transferred until the name of the transferee is registered in respect thereof.

Transferor to remain proprietor till transfer registered.

21. The directors may from time to time close the register and transfer-books of the Bank for any period or periods not exceeding in the whole thirty days in any twelve consecutive months.

Power to close transfer-books.

22. The proprietors and shareholders for the time being, and no other persons, shall be members respectively of the bodies corporate hereby constituted,

Corporation to consist of registered proprietors or shareholders only.

and, except for the purpose of excluding the provisions of section seventeen, the Bank shall not be bound or affected by notice of any trust to which any stock or share may be subject in the hands of the proprietor or holder thereof;

Notice of trusts.

and when any stock or share is vested in more than one proprietor or holder, such proprietors or shareholders shall, as between themselves and the Bank, be considered as joint owners with benefit of survivorship:

Shares vested in several holders.

Provided that, as regards voting at meetings, service of notices, and receipt of dividend, the person whose name stands first in the register as one of the proprietors or holders of such stock or shares shall be deemed the sole proprietor or holder thereof.

23. Any person becoming entitled to stock or shares in consequence of the insolvency or bankruptcy of any proprietor or shareholder, or in consequence of the marriage of any female proprietor or shareholder, may be registered as a proprietor or shareholder upon such evidence being produced as the directors may from time to time require.

Transmission on insolvency or marriage.

CHAPTER VI.

DIRECTORS.

24. The business of the Bank shall be managed by the Board, which shall in the first instance consist of six directors, and may subsequently consist of such number, not less than six, and not more than nine, as may be fixed by a special resolution.

Board.

Such directors shall be selected by vote of a general or special meeting.

Three of the directors shall form a quorum for the transaction of business.

Quorum.

25. The persons who, on the first day of May 1876, are respectively directors of the Bank of Bengal, the Bank of Madras, and the New Bank of Bombay, Limited, shall be respectively directors of the Bank of Bengal, the Bank of Madras, and the Bank of Bombay, as constituted by this Act, subject to removal as hereinafter provided and to the other provisions herein contained.

Present directors to be continued.

26. The two directors who have been longest in office shall go out of office at the general meeting.

Two directors to go out by rotation annually.

Any director so retiring shall be eligible for re-election at such meeting, and, if any question arise as to which of the directors who have been the same time in office shall retire, such question shall be decided by the directors by ballot.

27. *Clause* 1.—No person shall be eligible or qualified to serve as a director of a Bank who is not a proprietor or holder in his own right of unencumbered stock or shares of such Bank, to the amount of ten thousand rupees at the least.

Qualification of directors

Clause 2.—No person shall be eligible or qualified to serve as a director—

Disqualification of directors.

If he holds the office of director, provisional director, promoter, agent or manager of any other joint-stock Bank established, or having a branch or agency, in British India, or advertised as about to be established, or to have a branch or agency, in British India; or

If he is a salaried officer of Government not specially authorised by the Governor General in Council to serve as a director;

And the office of director shall be vacated—

If the person holding it resigns his office or dies;

If he accepts or holds any other office of profit under the Bank;

If he becomes insolvent or bankrupt, or compounds with his creditors;

If he is declared lunatic, or becomes of unsound mind;

If he ceases to hold in his own right the amount or number of unencumbered stock or shares required to qualify him for the office.

Clause 3.—No two persons who are partners of the same mercantile firm, or one of whom is the general agent of, or holds a power of procuration from, the other, or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as directors at the same time.

Co-partners of same firm not to serve as directors at same time.

Clause 4.—The proprietors or shareholders may, by a special resolution passed by the votes of proprietors or shareholders holding in the aggregate not less than one-half of the capital, remove any director before the expiration of his period of office, and appoint, in his stead, a qualified person, who shall in all respects stand in his place.

Power to remove directors.

28. At the first meeting of the directors in every year, they shall choose a president and vice-president from among themselves,

Directors to choose president and vice-president.

and whenever the office of president or vice-president becomes vacant, they shall, at their next meeting, choose a successor for the remainder of the current year.

The president, or in his absence the vice-president, shall be chairman at all meetings whether of directors or of proprietors or shareholders, or of proprietors and shareholders, and shall have an additional or casting vote in all cases of an equal division of votes. Provided that if both the president and vice-president be absent at any meeting the directors present shall elect a chairman for such meeting from among themselves, and such chairman shall, in case of an equal division of votes, have an additional or casting vote.

Chairman.

Casting vote.

29. The Board shall have power at any time, and from time to time, to supply any vacancies in their number arising from the death, resignation, or disqualification under section twenty-seven, of any director.

Vacancies among directors how filled up.

Any director so appointed shall, for the purposes of section twenty-six, be considered to have held office from the date on which the director in whose place he is appointed was elected, or (where such director was appointed under this section) from the date on which his mediate or immediate predecessor was elected.

30. All acts done by any person acting in good faith as a director shall be as valid as if he was a director, notwithstanding it be afterwards discovered that there was some defect in his appointment or qualification.

Acts of directors valid notwithstanding subsequent discovery of disqualification.

31. Every director shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.

Indemnity of directors.

No director shall be responsible for any other director or for any officer, clerk or servant of the Bank, or for any loss or expense happening to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

CHAPTER VII.

OFFICERS OF THE BANK.

Appointment, salaries, suspension and removal of officers.

32. The directors shall have power—

to appoint such officers, clerks and servants as may be necessary to conduct the business of the Bank,

to grant salaries, pensions and other emoluments to such officers, clerks and servants, and

to suspend or remove any officer, clerk or servant of the Bank.

33. The Secretary and such other officers of the Bank as the directors may by writing notified in the local official Gazette (and, in the case of the Bank of Bengal, also in the *Gazette of India*) are hereby severally empowered for and on behalf of the Bank to endorse and transfer promissory notes, stock-receipts, stock, debentures, shares, securities and documents of title to goods, standing in the name of, or held by, the Bank,

Accounts, receipts and documents of Bank by whom to be signed.

and to draw, accept and endorse bills of exchange, bank post-bills, and letters of credit, in the current and authorized business of the Bank,

and to sign all other accounts, receipts and documents connected with such business.

34. No Secretary, Inspector, Manager, or Accountant in the service of the Bank,

Officers forbidden to engage in other commercial business.

and no Khazánchi, Cashier or Shroff in the service of the Bank at the principal office,

and, without the previous sanction of the Board, no Agent, Khazánchi, Cashier or Shroff at any branch or agency of the Bank,

shall engage in any other banking or commercial business, either on his own account or as agent for any other person or persons, or shall act as broker or agent for the sale or purchase of Government or other securities.

35. Every person appointed to hold, or act in, any one or more of the said offices, and every other officer from whom the directors may from time to time think fit to require it, shall give security to the directors, for the faithful discharge of his duty to the satisfaction of the directors, in such amount and in such manner as they think proper.

Security from officers.

The security to be given as aforesaid by the person holding or acting in the office of Secretary shall not be in a less amount than fifty thousand rupees.

CHAPTER VIII.

BUSINESS.

36. The Bank is authorized to carry on and transact the several kinds of business hereinafter specified (that is to say):

Business which Banks may transact.

(*a*) the advancing and lending money, and opening cash-credits, upon the security of—

(1) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(2) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(3) stock or debentures of, or shares in, Railway or other Companies, the interest whereon shall have been guaranteed by the Secretary of State for India in Council;

(4) debentures or other securities for money issued by, or on behalf of, any municipal body under the authority of any Act of a legislature established in British India;

(5) bullion or other goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits; and

(6) bills of exchange and other negotiable instruments:

Provided that such advances and loans may be made, if the directors think fit, to the Secretary of State for India in Council, without any specific security;

(*b*) the selling and realization of the proceeds of sale of any such promissory notes, debentures, stock receipts, bonds, annuities, stock, shares, securities, bullion or goods which, or the documents of title to which, have been deposited with, or assigned to, the Bank as security for such advances, loans or credits, or which are held by the Bank, or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank, and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit or assignment;

(*c*) the drawing, discounting, buying and selling of bills of exchange and other negotiable securities payable in India, or (in the case of the Bank of Madras) in Ceylon;

(*d*) the investing of the funds of the Bank upon any of the securities specified in paragraph (*a*) of this section, clauses (1), (2), (3) and (4), and converting the same into money when required,

and from time to time altering, converting and transposing such investments for or into others of the investments above specified;

(*e*) the making, issuing and circulating of bank-post-bills and letters of credit made payable in India, or (in the case of the Bank of Madras) in Ceylon, to order, or otherwise than to the bearer on demand;

(*f*) the buying and selling of gold and silver, whether coined or uncoined;

(*g*) the receiving of deposits and keeping cash-accounts on such terms as may be agreed on;

(*h*) the acceptance of the charge and management of plate, jewels, title-deeds or other valuable goods on such terms as may be agreed upon;

(*i*) the selling and realizing of all property whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims;

(*j*) the transacting of pecuniary agency business on commission;

(*k*) the acting as agent on commission in the transaction of the following kinds of business (namely):—

(1) the buying, selling, transferring and taking charge of any securities, or any shares in any public Company;

(2) the receiving of the proceeds, whether principal, interest or dividends, of any securities or shares;

(3) the remittance of such proceeds at the risk of the principal by public or private bills of exchange, payable either in India or elsewhere;

(*l*) the drawing of bills of exchange, and the granting of letters of credit, payable out of India, for the use of principals for the purpose of the remittances mentioned in the last preceding clause of this section;

(*m*) the buying, for the purpose of meeting such bills or letters of credit, of bills of exchange payable out of India, at any usance not exceeding six months;

(*n*) and, generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business hereinbefore specified;

(*o*) It shall also be lawful for the Bank under any arrangement or agreement with the Secretary of State for India in Council—

(1) to act as banker for, and to pay, receive, collect and remit money, bullion and securities on behalf of the Government;

(2) to undertake and transact any other business which the Government may from time to time entrust to the Bank;

And the directors shall have power from time to time to arrange and settle with the Governor General in Council the terms of remuneration on which such business shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank by or on behalf of the Governor General in Council.

37. The directors shall not transact any kind of banking business other than those above specified, and in particular they shall not make any loan or advance—

Business which Banks may not transact.

(*a*) for a longer period than three months; or

(*b*) upon the security of stock or shares of the Bank of which they are directors; or

(*c*) upon mortgage, or in any other manner upon the security, of any immoveable property, or the documents of title relating thereto.

(*d*) Nor shall they lend or advance, by discount of bills or otherwise, to any individual or partnership firm (except upon the security mentioned in section thirty-six, paragraph (*a*), numbers (1) to (5) inclusive), any sums of money exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force.

(*e*) Nor shall they discount or buy, or advance and lend, or open cash-credits on the security of any negotiable instrument of any individual or partnership firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership.

(*f*) Nor shall they discount or buy, or advance and lend, or open cash-credits on the security of any negotiable security having at the date of the proposed transaction a longer period to run than three months, or if drawn after sight, drawn for a longer period than three months: provided that, in the case of the Bank of Madras, the directors may discount negotiable securities payable in Ceylon having at the date of the transaction a period to run not exceeding four months.

38. Until the expiration of at least fourteen days after notice has been given by notification of the Governor General in Council published, in the case of the Bank of Bengal, in the *Gazette of India* and the *Calcutta Gazette*, and in the cases of the Bank of Madras and the Bank of Bombay, in the local official Gazette, that the Bank will no longer act as banker for, or pay, receive, collect or remit money, bullion and securities on behalf of the Government,

Sums payable by or to Government to be payable at Banks.

all sums payable by or to the Secretary of State for India in Council, or by or to the Governor General in Council, or the Government of Bengal or the Governor of Fort St. George in Council or the Governor of Bombay in Council, on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, or at the General Treasury at Madras, or at the General Treasury at Bombay,

shall be payable—

in the case of the Secretary of State for India in Council, or the Governor General in Council—at the office of the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be,

in the case of the Government of Bengal—at the office of the Bank of Bengal;

in the case of the Governor of Fort St. George in Council—at the office of the Bank of Madras; and

in the case of the Governor of Bombay in Council—at the office of the Bank of Bombay.

Presentment of promissory notes at Banks.

39. Whenever presentment of any promissory note, bond or other security for payment or any other purpose at any of the said General Treasuries would heretofore have been necessary or sufficient, presentment for such purpose shall be necessary or sufficient (as the case may be) until the expiration of fourteen days after the giving of the notice mentioned in section eleven—

in the case of the General Treasury of Fort William—at the office of the Bank of Bengal;

in the case of the General Treasury at Madras—at the office of the Bank of Madras; and

in the case of the General Treasury at Bombay—at the office of the Bank of Bombay.

Place of business.

40. The office of the Bank of Bengal shall be at Calcutta, that of the Bank of Madras shall be at Madras, and that of the Bank of Bombay shall be in the Island of Bombay;

and the business of the Bank shall be carried on at its office, and at such other place or places in India as the Board may deem advisable, under the provisions of section fifteen.

Acquisition of business premises.

41. For the purpose of providing offices and places in and at which to carry on and manage the business of the Bank, and proper residences for its agents, the directors may—

(*a*) acquire any interest in immoveable property, and

(*b*) sell, buy in, resell, exchange, let, furnish, repair, insure against fire and otherwise deal with all or any part of the same as they may consider most conducive to the interests of the Bank.

Establishment of branches and agencies.

42. It shall be lawful for the directors to maintain as branches or agencies of the Bank, any branches or agencies of the present Banks, which may be in existence on the first day of May 1876,

and, from time to time, to establish branches or agencies at such places within the Presidency in which the Bank is situate as they deem advantageous to the interest of the Bank,

and, with the previous consent of the Governor General in Council, and subject to such restrictions as to the business to be transacted as he thinks fit in each case to impose (such consent and restrictions being notified in the *Gazette of India*), to establish branches or agencies at such places outside the Presidency in which the Bank is situate, as the directors deem advantageous for the interests of the Bank:

Proviso.

Provided that no agency of the Bank now or hereafter established in Bombay, Calcutta or Madras shall advance, or lend money, or open cash-credits on securities, or receive deposits and keep cash-accounts, or discount bills of exchange drawn and payable in the Presidency in which it is so established,

or shall act as agent on commission, or transact any business except as agent of its principal Bank, or any of its branches or other agencies.

The directors may discontinue any branch or agency maintained or established under this section.

CHAPTER IX.

ACCOUNTS AND DIVIDENDS.

Books to be balanced twice a year.

43. The directors shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

A statement of the balance at every such period, signed by a majority of the directors, shall be forthwith sent to a Secretary to the Government of India, and in the cases of the Bank of Madras and the Bank of Bombay, also to a Secretary to the Local Government.

The Governor General in Council in the case of each of the said Banks, and the Local Government in the case of the Bank of Madras and the Bank of Bombay, shall (so long as any such arrangement with the Government as aforesaid, which has already been, or shall hereafter be, entered into remains in force) at all times be entitled to require of the directors any information touching the affairs of the Bank and the production of any document of the Bank,

and in the case of each of the said Banks the Governor General in Council may require the publication of such statements of its assets and liabilities at such intervals and in such form and manner as the Governor General in Council thinks fit.

Every requisition under this section shall be signified in writing under the hand of a Secretary to the Government of India or to the Local Government (as the case may be), and the directors shall comply with every such requisition.

Dividends to be determined half-yearly.

44. An account of the profits of the Bank during the previous half-year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June,

and a dividend shall be made as soon thereafter as conveniently may be,

and the amount of such dividend shall be determined by the directors, subject to the provisions of section forty-five;

No unpaid dividend shall bear interest as against the Bank.

Reserve-fund.

45. The directors, before declaring any dividend, may set aside out of the profits of the Bank such a sum as they think proper as a reserve-fund, and

invest the same upon any of the securities specified in section thirty-six, paragraph (*a*), clauses (1), (2), (3) and (4).

Application of reserve-fund.

46. The directors may from time to time apply such portion as they think fit of the reserve-fund to meet contingencies, or for equalizing dividends, or for any other purposes of the Bank, which they from time to time deem expedient.

CHAPTER X.

AUDIT.

Election of auditors.

47. Two auditors shall be elected and their remuneration fixed at the annual general meeting.

Who may be auditors.

The auditors may be proprietors or shareholders; but no director or other officer of the Company is eligible during his continuance in office.

Auditors re-eligible.

Any auditor shall be re-eligible on his quitting office.

Auditors' tenure of office.

The persons who shall be auditors on the first day of May 1876, and all auditors elected under this section, shall severally be and continue to act as auditors until the first general meeting after their respective elections:

Supply of casual vacancy in office.

Provided that if any casual vacancy occurs in the office of any auditor, the directors shall forthwith call a special meeting for the purpose of supplying the same.

Rights and duties of auditors.

48. Every auditor shall be supplied with a copy of the half-yearly balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may (at the expense of the Bank) employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine the directors or any other officer of the Bank.

The auditors shall make a report to the proprietors and shareholders upon the annual balance-sheet and accounts; and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by the bye-laws made under this Act and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the directors, whether it has been given by the directors and whether it has been satisfactory.

Such report shall be read together with the report of the directors at the annual general meeting.

CHAPTER XI.

MEETINGS.

Annual general meeting.

49. On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held, at which the directors shall submit to the proprietors and shareholders a statement of the affairs of the Bank made up to the preceding thirtieth day of June.

A notice convening such meeting, signed by the Secretary and Treasurer, shall be published in the local official Gazette, and in the case of the Bank of Bengal also in the *Gazette of India*, at least fifteen days before the meeting is held.

Special meetings.

50. Any ten or more proprietors or shareholders holding stock or shares, or both, to the aggregate amount of fifty thousand rupees, or any three directors, may convene a special meeting upon giving fifteen days' previous notice of such meeting, and of the purpose for which the same is convened, as well to the directors as also by public advertisement in the local official Gazette, and in two of the English daily newspapers and one of the Vernacular newspapers:

Provided that three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank, and shall also be served on every proprietor and shareholder.

Quorum.

51. No business shall be transacted at any meeting, whether general or special, unless a quorum of twenty proprietors or shareholders, or both, in person or by proxy, is present at the commencement of such business.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by proprietors or shareholders not being directors, shall be dissolved: in any other case it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present it shall be adjourned *sine die*.

Decision by majority of votes.

52. At meetings whether general or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, except as in section thirteen and in section twenty-seven, clause 4, is specially provided,

Persons not allowed to vote.

and no person shall be allowed to vote at any such meeting in respect of any stock or share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

Shareholders in arrear as to calls.

And no shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

Power to declare resolution carried by show of hands.

53. A declaration by the chairman of any meeting, except a special meeting held under section thirteen, that a resolution has been carried thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution, unless, immediately on such declaration, a poll be demanded in writing by five proprietors or shareholders present and entitled to vote at such meeting.

54. If a poll be demanded, it shall be taken at such time and place, and (except at the special meeting last aforesaid) either by open voting or by ballot, as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Poll to be taken, if demanded.

55. The proceedings at any meeting, and all resolutions and decisions of such meeting, shall be valid and binding on the Bank, so far as such proceedings, resolutions and decisions are consistent with the provisions of this or any other Act for the time being in force and regulating the Bank.

Proceedings and resolutions at meetings to be binding.

56. At all such meetings, the proprietors or shareholders shall vote according to the following scale :—

Scale of votes.

The proprietor of capital stock amounting to Rs. 2,000, or the holder of shares of which the total nominal amounts are equal to Rs. 2,000, shall be entitled to ...	1 vote.
The proprietor of capital stock amounting to Rs. 10,000, or the holder of shares of which the total nominal amounts are equal to Rs. 10,000, shall be entitled to ...	2 votes.
The proprietor of capital stock amounting to Rs. 20,000, or the holder of shares of which the total nominal amounts are equal to Rs. 20,000, shall be entitled to ...	3 „
The proprietor of capital stock amounting to Rs. 30,000, or the holder of shares of which the total nominal amounts are equal to Rs. 30,000, shall be entitled to ...	4 „
The proprietor of capital stock amounting to Rs. 40,000, or the holder of shares of which the total nominal amounts are equal to Rs. 40,000, shall be entitled to ...	5 „
The proprietor of capital stock amounting to Rs. 50,000, or the holder of shares of which the total nominal amounts are equal to Rs. 50,000, shall be entitled to ...	6 „
The proprietor of capital stock amounting to Rs. 75,000, or the holder of shares of which the total nominal amounts are equal to Rs. 75,000, shall be entitled to ...	7 „
The proprietor of capital stock amounting to Rs. 1,00,000, or the holder of shares of which the total nominal amounts are equal to Rs. 1,00,000, shall be entitled to	8 „
The proprietor of capital stock amounting to Rs. 1,25,000, or the holder of shares of which the total nominal amounts are equal to Rs. 1,25,000, shall be entitled to	9 „
The proprietor of capital stock amounting to Rs. 1,50,000, or the holder of shares of which the total nominal amounts are equal to Rs. 1,50,000, shall be entitled to	10 „
The proprietor of capital stock amounting to Rs. 1,75,000, or the holder of shares of which the total amounts are equal to Rs. 1,75,000, shall be entitled to ...	11 „
The proprietor of capital stock amounting to Rs. 2,00,000, or the holder of shares of which the total amounts are equal to Rs. 2,00,000, shall be entitled to ...	12 „

Where a person is both a proprietor of stock and a holder of shares, his shares shall, for the purpose of this section, be deemed to be stock.

No proprietor or shareholder shall be entitled to more than twelve votes at any such meeting.

57. Any proprietor or shareholder entitled to vote at any meeting under this Act may give a proxy in writing, either general or special, under his hand or the hand of his attorney duly authorized, to any other proprietor or shareholder.

Proxies of proprietors or shareholders.

Such proxy shall be produced at the time of voting, and shall entitle the person to whom it is given to vote on such matters as shall be authorized by the tenor of such proxy.

But no person shall be permitted to vote in virtue of such proxy unless it has been left for registration at the office of the Bank at least three clear days before the time for holding the meeting at which it is intended to be used :

Provided that a general proxy which has been registered at such office need not be again left for registration previous to any subsequent meeting.

Proxies existing and in force with reference to any of the present Banks, on the first day of May 1876, shall continue in force and be available at meetings under this Act, anything herein contained notwithstanding.

Existing proxies.

A general power-of-attorney shall be deemed a proxy within the meaning of this section.

58. If any proprietor or shareholder is a lunatic or idiot, he may vote by his committee or other legal curator, and if any proprietor or shareholder is a minor, he may vote by his guardian, or any one of his guardians, if more than one.

Voting by lunatic and minor shareholders.

CHAPTER XII.

NOTICES.

59. Every notice or other document requiring to be served by the Bank upon any proprietor or shareholder may be served either personally, or by leaving it for, or sending it through the post by registered letter addressed to, him at his registered place of abode;

Service of notices by Bank.

and every notice sent through the post shall be deemed to have been served at the time at which, in the usual course of post, it would have been delivered.

60. Any proprietor or shareholder who changes his name or place of abode, or being a female marries, and the husband of any such female, respectively, shall not be entitled to recover any dividend or to vote until notice of the change of name or abode or marriage be given to the Bank, in order that the same may be registered.

Notices by shareholders.

Every notice to be given on the part of any proprietor or shareholder shall be left at the office of the Bank, or sent through the post by registered letter addressed to the Secretary and Treasurer of the Bank at its principal office.

61. Every person who by operation of law, transfers or otherwise becomes entitled to any stock or shares, shall be bound by any and every notice or other document which, previously to his name and address being entered upon the register of the Bank in respect of such stock or shares, has been given to the person from whom he derives his title thereto.

Shareholder bound by notices, to previous holders.

62. When any notice or document is delivered or sent, in accordance with this Act, at or to the registered place of abode of a proprietor or shareholder, then, and notwithstanding he be then deceased, and whether or not the Bank have notice of his decease, such service of the notice or other document shall, for all purposes of this Act, be deemed service thereof on him, or, if dead, on his heirs, executors, administrators, and every of them.

Service of notices good notwithstanding shareholder's death.

CHAPTER XIII.

BYE-LAWS.

63. The directors shall as soon as may be make, and may from time to time alter, bye-laws regulating the following matters or any of them :—

Power of directors to make bye-laws.

(*a*) the maximum amount which may be advanced or lent by discount of bills, or otherwise, to any individual or partnership, without the security mentioned in section thirty-six, paragraph (*a*), Nos. (1) to (5) inclusive,

(*b*) the circumstances under which alone advances may be made to directors or officers of the Bank, or the relatives of such directors or officers, or to companies, firms or individuals with which or with whom such directors, officers, or relatives are connected as partners, directors, managers, servants, shareholders, or otherwise,

(*c*) the particulars to be contained in the half-yearly balance-sheet,

The directors may from time to time make bye-laws regulating the following matters or any of them :—

(*d*) the distribution of business amongst the directors,

(*e*) their remuneration,

(*f*) the delegation of any powers of the directors to committees consisting of members of their body,

(*g*) the procedure at the meetings of the board or of any committee of the directors,

(*h*) the books and accounts to be kept at the head and other offices respectively,

(*i*) the reports and statements to be prepared and made by the Chief Accountant, the heads of departments, and the other officers of the Bank,

(*j*) the management of the branches and agencies,

(*k*) the fees payable for certificates of shares or receipts for stock, or for registration of transfers of shares or stock,

(*l*) the renewal of certificates of shares and receipts for stock, which have been worn-out or lost,

(*m*) and, generally, for the conduct of the business of the Bank :

Provided that no bye-law, or alteration or rescission of any bye-law, shall be of any validity, except in so far as the same is consistent with the provisions of this Act, and has been previously approved by the Governor General in Council, and such approval has been signified in writing under the hand of a Secretary to the Government of India.

Proviso.

CHAPTER XIV.

MISCELLANEOUS.

64. The directors may institute, conduct, defend, compromise, refer to arbitration and abandon legal and other proceedings and claims by or against the Bank or the directors or officers of the Bank, and otherwise concerning its affairs.

Power to institute and compromise suits.

65. In any suit brought against any shareholder to recover any debt due for any call or other monies due from him in his character of shareholder, it shall be sufficient to allege that the defendant is a shareholder of the Bank, and is indebted to the Bank in respect of a call made or other monies due, whereby a right to sue has accrued to the Bank;

Evidence in legal proceedings against shareholders.

and, on the hearing of any suit brought by the Bank against any shareholder to recover any debt due for any call, it shall be sufficient to prove that the name of the defendant is on the register of shareholders of the Bank as the holder of the shares in respect of which such debt accrued, and that the call was made, and that notice of such call was duly given to the defendant in pursuance of this or any other Act for the time being in force regulating the Bank;

and it shall not be necessary to prove the appointment of the directors who made such call, nor that a quorum of directors was present at the Board at which such call was made, nor that the meeting at which it was made was duly convened or constituted.

66. Nothing in the Thirty-third of George the Third, session two, chapter fifty-two, shall be deemed to render it unlawful for any servant of Government, or for any Judge of a High Court, to become a member of any corporation established under this Act.

Modification of 33 Geo. III, sess. 2, cap. 52.

67. And whereas the Government of India has agreed to sell, and the directors of the present Bank of Bengal have agreed to purchase, at a premium of twenty-two and a half per centum, the said two thousand two hundred shares of one thousand rupees each held by the Government of India in the same Bank; and it is intended that the directors of the Bank of Bengal as constituted by this Act shall cancel two thousand of such shares, and sell for the benefit of the Bank four hundred shares in the same Bank corresponding with the remaining two hundred shares so agreed to be sold and purchased;

Sale to Banks of Bengal and Madras of Government shares therein.

And whereas the Government of India has agreed to sell, and the directors of the present Bank of Madras have agreed to purchase, at a premium of ten per centum, the said five hundred and sixty-two and a half shares held by the Government of India in the same Bank : and it is intended that the directors of the Bank of Madras as constituted by this Act shall cancel the same shares;

And whereas the directors of the present Bank of Madras have purchased and cancelled other sixty-two and a half shares in such Bank;

Purchase and cancellation by directors of 62½ shares in present Bank of Madras.

And whereas the said respective directors of the present Bank of Bengal and Bank of Madras had no power to enter into the said agreements with the Government of India, and the directors of the Bank of Bengal as constituted by this Act have no power to sell the four hundred shares referred to in this section, and the said directors of the present Bank of Madras had no power to purchase and cancel the said other sixty-two and a half shares;

And whereas the directors of the Bank of Bengal as constituted by this Act have no power to cancel the said two thousand shares and the said directors of the Bank of Madras as consti-

tuted by this Act have no power to cancel the said five hundred and sixty-two and a half shares;

And whereas it is expedient to confirm the said agreements with the Government of India, and to indemnify the said respective directors of the present Bank of Bengal and Bank of Madras for entering into the same, and to confirm the said purchase of the said other sixty-two and a half shares by the directors of the present Bank of Madras, and to indemnify the same directors for making the same, and for cancelling the same shares, and to empower the directors of the Bank of Bengal as constituted by this Act to sell the said four hundred shares, and to empower the respective directors of the Bank of Bengal and Bank of Madras as constituted by this Act to cancel the said shares so intended to be cancelled; It is hereby further enacted as follows:—

Confirmation of agreements with Government.

(*a*).—The said agreements with the Government of India are hereby confirmed, and the said respective directors of the present Bank of Bengal and Bank of Madras are hereby indemnified for entering into the same; and no suit or other proceeding shall be maintained against any such director in respect of any thing *bonâ fide* done in pursuance of either of such agreements.

Confirmation of purchase of the 62½ shares.

(*b*).—The said purchase of the said other sixty-two and a half shares is hereby confirmed, and the said directors of the present Bank of Madras are hereby indemnified for making the same and for cancelling the same shares; and no suit or other proceeding shall be maintained against any such director in respect of anything *bonâ fide* done in effecting such purchase and cancellation.

Sale by directors of 400 shares in Bank of Bengal.

(*c*).—The directors of the Bank of Bengal as constituted by this Act shall have power to sell, and shall, as soon as conveniently may be, sell, the said four hundred shares, either together or in parcels, and either by public auction or private contract, and shall apply the proceeds in or towards paying the price of the shares of the Government of India so agreed to be purchased by the directors of the present Bank as aforesaid, or otherwise for the benefit of the Bank of Bengal as constituted by this Act.

Cancellation of certain shares.

(*d*).—The directors of the Bank of Bengal as constituted by this Act shall have power to cancel, and shall, as soon as conveniently may be, cancel, the said two thousand shares, and the directors of the Bank of Madras as constituted by this Act shall have power to cancel, and shall, as soon as conveniently may be, cancel, the said five hundred and sixty-two and a half shares.

SCHEDULE.

(SEE SECTION 2.)

Part I.—Statute.

Number and year.	Abbreviated title.	Extent of repeal.
47 George III, sess. 2, cap. 68.	An Act for the better government of the Settlements of Fort St. George and Bombay, &c.	Sections eight, nine, and ten.

Part II.—Acts of the Governor General in Council.

Number and year.	Title.
IV of 1862	An Act for regulating the Bank of Bengal.
V of 1862	An Act to provide for the payment at the Banks of Bengal, Madras and Bombay, of monies payable at the General Treasuries of Calcutta, Madras and Bombay.
VI of 1862	An Act to annex a schedule to Act IV of 1862.
XXIX of 1863	An Act to declare the receipts of the Banks of Bengal, Madras and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George and Bombay, respectively.
XIX of 1870	An Act to enable the Directors of the Bank of Bengal to act by a quorum.

Part III.—Acts of the Governor of Fort St. George in Council.

Number and year.	Title.
VI of 1866	An Act for repealing Madras Act V of 1862, and for regulating the Bank of Madras.
I of 1871	An Act to amend Madras Act VI of 1866, to give validity to certain acts done by the Directors of the Bank of Madras, and to enable outgoing Directors to be re-elected.

Part IV.—Acts of the Governor of Bombay in Council.

Number and year.	Title.
X of 1863	An Act for the Reincorporation and re-constitution of the Bank of Bombay.
XV of 1866	An Act to amend Act No. X of 1863 (Bombay).
I of 1867	An Act to reduce the amount of the capital of the Bank of Bombay and of the shares thereon, and to amend Act X of 1863 and Act XV of 1863 (Bombay).

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 25, 1876. { Register No. 75.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th March 1876, and was referred to a Select Committee with instructions to make their report thereon in a week:—

No. 4 OF 1876.

A Bill to provide for the management of the Public Museum at Calcutta.

Preamble.

WHEREAS, by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of a Public Museum at Calcutta to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors were constituted a Body Corporate by the name of the Trustees of the Indian Museum, and the said Trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the purposes of their trusts therein mentioned; and it was also enacted that the said Trustees should have the exclusive possession, occupation and control, for the purposes of such trusts, of the said building, other than those portions thereof which upon its completion should be set apart by the said Trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust property, should be appointed, and might be removed or suspended, by the said Trustees, subject to such regulations and conditions as the said Trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society and illustrative of Indian Archæology and the several branches of Natural History and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed as far to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said Trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said Trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures and engravings which they then possessed, and that the Council of the said Society should have the exclusive

possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their Library and other property thereinbefore mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said Trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said Trustees;

And whereas the said Trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control secured to them by the said Act of the portions of the said building which, under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said Library and other property;

And whereas it is expedient to increase the number of Trustees constituting the said Body Corporate and to amend the law relating to the appointment and salaries of the said officers:

And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Museum Act, 1876."

Repeal of Act No. XVII of 1866.

2. Act No. XVII of 1866 (*to provide for the establishment of a Public Museum at Calcutta*) shall be repealed. But all persons nominated under the said Act as Trustees of the Indian Museum, and all officers and servants appointed under the same Act, and now holding office shall be deemed to have been respectively nominated and appointed under this Act.

Incorporation of the Trustees.

Trustees of the Indian Museum incorporated.

3. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in such Department as the Governor General in Council from time to time directs in this behalf,

the Accountant General,

five other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and four other Members of the said Society for the time being, to be nominated by the Council of the [illegible] Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist seven Members thereof.

Ex-officio Members.

4. The persons for the time being holding the offices respectively mentioned in section three shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively.

Provision in case of two offices being held by one person.

In the event of any two of the said offices being held by the same person, the Governor-General in Council may from time to time nominate such other person as he thinks fit to be a Trustee under this Act so long as the said two offices are held by one person:

Provided that whenever the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India, Accountant General, or Superintendent of the Geological Survey of India is also the President of the said Society, the Council of the said Society may nominate any other person being a Member of the said Society to be a Trustee under this Act so long as such Presidency is held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary, Accountant General, or Superintendent.

Power to appoint new Trustees.

5. If any of the said Trustees to be nominated by the Governor-General in Council or by the Council of the said Society, or any Trustee appointed as herein provided, dies or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, then and in every such case the Governor-General in Council or the Council of the said Society, as the case may be, may appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid,

and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Powers of the Trustees.

Trustees empowered to receive bequests, donations and subscriptions.

6. It shall be lawful for the said Trustees (*a*) to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (*b*) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Indian Museum, and otherwise for the purposes of the same Museum;

and all such collections shall become the property of the said Trustees for the purposes of their trusts herein mentioned;

and the said Trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been

set apart by the said Trustees for the records and offices of the Geological Survey of India.

Power to Trustees to make bye-laws.

7. The said Trustees may from time to time make bye-laws consistent with this Act—

(*a*) for the management of the said Museum,

(*b*) for the summoning, holding and adjournment of General and Special Meetings of the said Trustees,

(*c*) for securing their attendance at such meetings,

(*d*) for the provision and keeping of minute-books and account-books,

(*e*) for the compiling of catalogues, and

(*f*) for all other purposes necessary for the execution of their trust.

Power to Trustees to appoint officers and servants.

8. Subject to such regulations and conditions as the Trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust property: provided—

(*a*) that no officer be appointed without the approval of the Governor-General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India;

(*b*) that no new office be created and no salaries of officers shall be altered without the previous sanction of the Governor-General in Council.

Trustees may exchange or sell duplicates.

9. The said Trustees may from time to time order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books, or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Quorum.

10. At all meetings of the said Trustees five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Duties of the Trustees.

Trustees shall furnish annual reports and accounts.

11. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor-General in Council appoints in this behalf accounts of all moneys expended by the Trustees during the past twelve months, supported by the necessary vouchers.

The said Trustees shall cause such report and accounts to be annually published for general information.

Collections of Asiatic Society to be kept distinguished in the Museum.

12. The said Trustees shall cause every article in the said collections belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section six, to be marked and numbered, and (subject to the provisions contained in sections nine and fifteen) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said Trustees, and delivered to the said Society, and another copy shall be signed by the Council of the said Society, and delivered to the said Trustees, and shall be kept by them along with the inventory already delivered to the said Trustees as aforesaid.

Articles received in exchange and moneys paid on sale to be held on trust.

13. All objects taken in exchange under section nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trust and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Miscellaneous.

Officers under Act to be public servants.

Their salaries, pensions and leave.

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India.

In case of determination of trust, Asiatic Society may reclaim their collections.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section twelve shall become the property of the said Society or their assigns.

STATEMENT OF OBJECTS AND REASONS.

Pursuant to Act XVII of 1866, the Government has erected a suitable building for the Indian Museum, and the collections of the Asiatic Society have been removed to that building. But the Council of that Society has relinquished the exclusive possession of the portions of the building which, under Act XVII, were to be set apart for their accommodation. It has also been found desirable to increase the number of Trustees fixed by that Act, and to amend the law relating to the appointment and salaries of their officers.

The present Bill, accordingly, repeals Act XVII and re-enacts it with certain changes, of which the following are the chief:—

(*a*) the number of Trustees is raised from thirteen to sixteen:

(*b*) no officer will be appointed without the approval of the Governor-General in Council or of the Secretary of State in Council:

(*c*) no new office will be created and no salary altered without the previous sanction of Government:

(*d*) so far as regards salaries, pensions and leave, the officers of the Museum will be subject to the rules applicable to the Uncovenanted Civil Service:

(*e*) the provisions of Act XVII securing to the Asiatic Society possession of certain parts of the Museum building have been omitted.

CALCUTTA,
26th February 1876.

E. C. BAYLEY.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st March 1876, and was referred to a Select Committee with instructions to make their report thereon in a fortnight:—

No. 5 OF 1876.

A Bill for the better control of dramatic performances.

WHEREAS it is expedient to empower the several Local Governments to prohibit dramatic performances which are scandalous, defamatory, seditious, obscene or otherwise prejudicial to the public interest; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Dramatic Performances Act, 1876:"

Short title.

It extends to the whole of British India;

Local extent.

And it shall come into force at once.

Commencement.

2. In this Act "Magistrate" includes a Presidency Magistrate.

"Magistrate" defined.

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed is—

Power to prohibit certain dramatic performances.

(a) of a scandalous or defamatory nature, or

(b) likely to excite feelings of disaffection to the Government established by law in British India, or

(c) likely to deprave and corrupt persons present at such performance, or

(d) otherwise prejudicial to the interests of the public,

the Local Government, or such officer as it may generally or specially empower in this behalf, may by order prohibit such performance.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to serve order of prohibition.

Penalty for disobeying order.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in the performance so prohibited.

Power to notify order.

6. Whoever, after the notification of any such order—

Penalty for disobeying prohibition.

(a) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(b) in any manner assists in conducting any such performance, or

(c) is present as a spectator during the whole or any part of any such performance, or

(d) being the owner or occupier, or having the use of any house, room or place, opens, keeps or uses the same for any such performance, or permits the same to be opened, kept or used for any such performance,

shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

7. If any Magistrate has reason to believe that any house, room or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Power to grant warrant to Police to enter and arrest and seize.

8. No conviction under this Act shall bar a prosecution under section 124 A, or section 294, of the Indian Penal Code.

Saving of Penal Code, sections 124A and 294.

9. Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

Power to prohibit dramatic performances in any local area, except under license.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area unless a copy of the piece, if and so far as it is

written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does or willingly permits any act in disobedience to such order, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to empower the Government to prohibit Native plays which are scandalous, defamatory, seditious or obscene. The necessity for some such measure has been established by the recent performance in Calcutta of a scurrilous Bengálí drama, to prevent which the existing law was found to be insufficient.

The Bill, first, empowers the Government or such officer as it empowers in this behalf, to issue an order prohibiting any dramatic performance which, in the opinion of the Government, comes within any of the classes above mentioned. The order may be served on intending performers or on the owner of the place in which the play takes place. The order may also be notified by proclamation, and penalties are provided for disobedience thereto.

Power is then given to the Magistrates to grant warrants to the Police to enter, arrest, and seize scenery, dresses, &c.

Lastly, the Local Government is empowered to order, in specified localities, that no play shall be performed in any place of public entertainment, except under a license from Government, and that a copy of the piece, if written, or a sufficient account of its purport, if it be in pantomime, shall be previously furnished to the proper authorities.

A. HOBHOUSE.

Calcutta, 9th March 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 1, 1876. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th March 1876, and was referred to a Select Committee with instructions to make their report thereon in a week: —

No. 4 OF 1876.

A Bill to provide for the management of the Public Museum at Calcutta.

Preamble.

WHEREAS, by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of a Public Museum at Calcutta to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors were constituted a Body Corporate by the name of the Trustees of the Indian Museum, and the said Trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the purposes of their trusts therein mentioned; and it was also enacted that the said Trustees should have the exclusive possession, occupation and control, for the purposes of such trusts, of the said building, other than those portions thereof which upon its completion should be set apart by the said Trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust property, should be appointed, and might be removed or suspended, by the said Trustees, subject to such regulations and conditions as the said Trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society and illustrative of Indian Archæology and the several branches of Natural History and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed as far as to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said Trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said Trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures and engravings which they then possessed, and that the Council of the said Society should have the exclusive

possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their Library and other property thereinbefore mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said Trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said Trustees;

And whereas the said Trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control secured to them by the said Act of the portions of the said building which, under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said Library and other property;

And whereas it is expedient to increase the number of Trustees constituting the said Body Corporate and to amend the law relating to the appointment and salaries of the said officers:

And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Museum Act, 1876."

Repeal of Act No. XVII of 1866.

2. Act No. XVII of 1866 (*to provide for the establishment of a Public Museum at Calcutta*) shall be repealed. But all persons nominated under the said Act as Trustees of the Indian Museum, and all officers and servants appointed under the same Act, and now holding office shall be deemed to have been respectively nominated and appointed under this Act.

Incorporation of the Trustees.

Trustees of the Indian Museum incorporated.

3. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in such Department as the Governor General in Council from time to time directs in this behalf,

the Accountant General,

five other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and four other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist seven Members thereof.

Ex-officio Members.

4. The persons for the time being holding the offices respectively mentioned in section three shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively.

Provision in case of two offices being held by one person.

In the event of any two of the said offices being held by the same person, the Governor General in Council may from time to time nominate such other person as he thinks fit to be a Trustee under this Act so long as the said two offices are held by one person:

Provided that whenever the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India, Accountant General, or Superintendent of the Geological Survey of India is also the President of the said Society, the Council of the said Society may nominate any other person being a Member of the said Society to be a Trustee under this Act so long as such Presidency is held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary, Accountant General, or Superintendent.

Power to appoint new Trustees.

5. If any of the said Trustees to be nominated by the Governor General in Council or by the Council of the said Society, or any Trustee appointed as herein provided, dies or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, then and in every such case the Governor General in Council or the Council of the said Society, as the case may be, may appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid,

and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Powers of the Trustees.

Trustees empowered to receive bequests, donations and subscriptions.

6. It shall be lawful for the said Trustees (*a*) to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (*b*) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Indian Museum, and otherwise for the purposes of the same Museum;

and all such collections shall become the property of the said Trustees for the purposes of their trusts herein mentioned;

and the said Trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been

set apart by the said Trustees for the records and offices of the Geological Survey of India.

Power to Trustees to make bye-laws.

7. The said Trustees may from time to time make bye-laws consistent with this Act—

(*a*) for the management of the said Museum,

(*b*) for the summoning, holding and adjournment of General and Special Meetings of the said Trustees,

(*c*) for securing their attendance at such meetings,

(*d*) for the provision and keeping of minute-books and account-books,

(*e*) for the compiling of catalogues, and

(*f*) for all other purposes necessary for the execution of their trust.

Power to Trustees to appoint officers and servants.

8. Subject to such regulations and conditions as the Trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust property: provided—

(*a*) that no officer be appointed without the approval of the Governor General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India;

(*b*) that no new office be created and no salaries of officers shall be altered without the previous sanction of the Governor General in Council.

Trustees may exchange or sell duplicates.

9. The said Trustees may from time to time order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books, or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Quorum.

10. At all meetings of the said Trustees five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Duties of the Trustees.

Trustees shall furnish annual reports and accounts.

11. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor General in Council appoints in this behalf accounts of all moneys expended by the Trustees during the past twelve months, supported by the necessary vouchers.

The said Trustees shall cause such report and accounts to be annually published for general information.

Collections of Asiatic Society to be kept distinguished in the Museum.

12. The said Trustees shall cause every article in the said collections belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section six, to be marked and numbered, and (subject to the provisions contained in sections nine and fifteen) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said Trustees, and delivered to the said Society, and another copy shall be signed by the Council of the said Society, and delivered to the said Trustees, and shall be kept by them along with the inventory already delivered to the said Trustees as aforesaid.

Articles received in exchange and moneys paid on sale to be held on trust.

13. All objects taken in exchange under section nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trust and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Miscellaneous.

Officers under Act to be public servants.

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India.

Their salaries, pensions and leave.

In case of determination of trust, Asiatic Society may reclaim their collections.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section twelve shall become the property of the said Society or their assigns.

STATEMENT OF OBJECTS AND REASONS.

Pursuant to Act XVII of 1866, the Government has erected a suitable building for the Indian Museum, and the collections of the Asiatic Society have been removed to that building. But the Council of that Society has relinquished the exclusive possession of the portions of the building which, under Act XVII, were to be set apart for their accommodation. It has also been found desirable to increase the number of Trustees fixed by that Act, and to amend the law relating to the appointment and salaries of their officers.

The present Bill, accordingly, repeals Act XVII and re-enacts it with certain changes, of which the following are the chief:—

(*a*) the number of Trustees is raised from thirteen to sixteen:

(*b*) no officer will be appointed without the approval of the Governor General in Council or of the Secretary of State in Council:

(*c*) no new office will be created and no salary altered without the previous sanction of Government:

(*d*) so far as regards salaries, pensions and leave, the officers of the Museum will be subject to the rules applicable to the Uncovenanted Civil Service:

(*e*) the provisions of Act XVII securing to the Asiatic Society possession of certain parts of the Museum building have been omitted.

CALCUTTA,
26*th February* 1876.

E. C. BAYLEY.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st March 1876, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 5 OF 1876.

A Bill for the better control of dramatic performances.

WHEREAS it is expedient to empower the several Local Governments to prohibit dramatic performances which are scandalous, defamatory, seditious, obscene or otherwise prejudicial to the public interest; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Dramatic Performances Act, 1876:" Short title.

It extends to the whole of British India; Local extent.

And it shall come into force at once. Commencement.

2. In this Act "Magistrate" includes a Presidency Magistrate. "Magistrate" defined.

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed is— Power to prohibit certain dramatic performances.

(a) of a scandalous or defamatory nature, or

(b) likely to excite feelings of disaffection to the Government established by law in British India, or

(c) likely to deprave and corrupt persons present at such performance, or

(d) otherwise prejudicial to the interests of the public,

the Local Government, or such officer as it may generally or specially empower in this behalf, may by order prohibit such performance.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both. Power to serve order of prohibition. Penalty for disobeying order.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in the performance so prohibited. Power to notify order.

6. Whoever, after the notification of any such order— Penalty for disobeying prohibition.

(*a*) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(*b*) in any manner assists in conducting any such performance, or

(*c*) is present as a spectator during the whole or any part of any such performance, or

(*d*) being the owner or occupier, or having the use of any house, room or place, opens, keeps or uses the same for any such performance, or permits the same to be opened, kept or used for any such performance,

shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

7. If any Magistrate has reason to believe that any house, room or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance. Power to grant warrant to Police to enter and arrest and seize.

8. No conviction under this Act shall bar a prosecution under section 124A, or section 294, of the Indian Penal Code. Saving of Penal Code, sections 124A and 294.

9. Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification. Power to prohibit dramatic performances in any local area, except under license.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does or willingly permits any act in disobedience to such order, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to empower the Government to prohibit Native plays which are scandalous, defamatory, seditious or obscene. The necessity for some such measure has been established by the recent performance in Calcutta of a scurrilous Bengálí drama, to prevent which the existing law was found to be insufficient.

The Bill, first, empowers the Government or such officer as it empowers in this behalf, to issue an order prohibiting any dramatic performance which, in the opinion of the Government, comes within any of the classes abovementioned. The order may be served on intending performers or on the owner of the place in which the play takes place. The order may also be notified by proclamation, and penalties are provided for disobedience thereto.

Power is then given to the Magistrates to grant warrants to the Police to enter, arrest, and seize scenery, dresses, &c.

Lastly, the Local Government is empowered to order, in specified localities, that no play shall be performed in any place of public entertainment, except under a license from Government, and that a copy of the piece, if written, or a sufficient account of its purport, if it be in pantomime, shall be previously furnished to the proper authorities.

A. HOBHOUSE.

Calcutta, 9th March 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 8, 1876. { Register No. 33.

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PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st March 1876, and was referred to a Select Committee with instructions to make their report thereon in two months :—

No. 5 OF 1876.

A Bill for the better control of dramatic performances.

Preamble.

WHEREAS it is expedient to empower the several Local Governments to prohibit dramatic performances which are scandalous, defamatory, seditious, obscene or otherwise prejudicial to the public interest; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Dramatic Performances Act, 1876:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force at once.

"Magistrate" defined.

2. In this Act "Magistrate" includes a Presidency Magistrate.

Power to prohibit certain dramatic performances.

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed is—

(a) of a scandalous or defamatory nature, or

(b) likely to excite feelings of disaffection to the Government established by law in British India, or

(c) likely to deprave and corrupt persons present at such performance, or

(d) otherwise prejudicial to the interests of the public,

the Local Government, or such officer as it may generally or specially empower in this behalf, may by order prohibit such performance.

Power to serve order of prohibition.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Penalty for disobeying order.

Power to notify order.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in the performance so prohibited.

Penalty for disobeying prohibition.

6. Whoever, after the notification of any such order—

(a) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(b) in any manner assists in conducting any such performance, or

(c) is present as a spectator during the whole or any part of any such performance, or

(*d*) being the owner or occupier, or having the use of any house, room or place, opens, keeps or uses the same for any such performance, or permits the same to be opened, kept or used for any such performance,

shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to grant warrant to Police to enter and arrest and seize.

7. If any Magistrate has reason to believe that any house, room or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Saving of Penal Code, sections 124A and 294.

8. No conviction under this Act shall bar a prosecution under section 124 A, or section 294, of the Indian Penal Code.

Power to prohibit dramatic performances in any local area, except under license.

9. Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does or willingly permits any act in disobedience to such order, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to empower the Government to prohibit Native plays which are scandalous, defamatory, seditious or obscene. The necessity for some such measure has been established by the recent performance in Calcutta of a scurrilous Bengálí drama, to prevent which the existing law was found to be insufficient.

The Bill, first, empowers the Government or such officer as it empowers in this behalf, to issue an order prohibiting any dramatic performance which, in the opinion of the Government, comes within any of the classes abovementioned. The order may be served on intending performers or on the owner of the place in which the play takes place. The order may also be notified by proclamation, and penalties are provided for disobedience thereto.

Power is then given to the Magistrates to grant warrants to the Police to enter, arrest, and seize scenery, dresses, &c.

Lastly, the Local Government is empowered to order, in specified localities, that no play shall be performed in any place of public entertainment, except under a license from Government, and that a copy of the piece, if written, or a sufficient account of its purport, if it be in pantomime, shall be previously furnished to the proper authorities.

A. HOBHOUSE.

Calcutta, 9th March 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 24, 1876.

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PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd June 1876:—

We, the undersigned Members of the Select Committee to which the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Note by the Hon'ble A. G. Macpherson, dated 28th February 1876.
Proposed re-arrangement of the Bill by the Secretary, Legislative Department.
From Government of Bombay, No. 1279, dated 24th February 1876.
„ Honorary Secretary, British Indian Association, dated 8th March 1876.
„ Honorary Secretary to the Calcutta Attornies' Association, dated 4th March 1876.
Opinion by W. E. Forsyth, Esq., dated 25th February 1876.
Remarks by the Senior Magistrate, Madras, dated 7th March 1876.
From Government of Bengal, No. 938 J., dated 13th March 1876, and enclosures.
Summary of demi-official remarks by the Senior Magistrates of Madras and Bombay.
From Superintendent and Remembrancer of Legal Affairs, No. 1773, dated 29th March 1876.
From Government of Madras, No. 719, dated 13th April 1876, and enclosures.
From Government of Bombay, No. 3996, dated 12th July 1875.
From Government of Madras, No. 1673, dated 19th July 1875, and enclosures.
Petition from Bombay Association, dated 18th May 1876.
Memorial of the British Indian Association, dated 2nd June 1876.
From Home Department, No. 872 J., dated 1st June 1876, and enclosures.
Note by Hon'ble T. C. Hope, dated 6th June 1876.
From Home Department, No. 971 J., dated 12th June 1876, and enclosures.
„ do. do., No. 981 J., dated 14th June 1876, forwarding letter from Government of Bengal, No. 3234, dated 17th November 1875.
From Home Department, No. 979 J., dated 14th June 1876, forwarding letter from Government of Bombay, No. 2990, dated 30th September 1875, and enclosures.

2. We have provided (section 1) that the Bill shall come into force, not at once, but on such day as the Governor General in Council directs by notification.

3. We have defined the word 'place,' and have struck out as unnecessary the definitions of 'special and local law,' 'inquiry,' 'inquired into,' 'cognizable and non-cognizable offence,' 'Magistrate,' 'High Court.'

4. For the same reason we have omitted the clause relating to the salaries of Presidency Magistrates.

5. We have also omitted the provision that such Magistrates shall exercise the powers which under any law may be exercised by two Justices of the Peace.

6. We have struck out the clause declaring that *all* existing Magistrates of Police (honorary as well as stipendiary) shall be deemed Presidency Magistrates under the proposed Act. The Local Governments will therefore have to make timely arrangements for re-appointing

such of those Magistrates as they may deem fit to exercise the enhanced powers which Presidency Magistrates will possess.

7. We have provided (section 11) that no punishment inflicted by a Presidency Magistrate shall exceed the punishment provided for the offence by the Penal Code or other law creating it. Under the Bill, as it recently stood, a Magistrate might give two years' imprisonment for criminal trespass.

8. We have struck out as unsuited to the Presidency towns the provisions authorizing the issue of process upon mere suspicion entertained by a Magistrate.

9. We do not think it expedient that any previous conviction should be allowed to be proved in order to enhance punishment: we have therefore (section 94) confined for this purpose previous convictions to those of offences against property, of offences relating to coin and stamps, and of the other offences enumerated in sections 2 and 4 of the Whipping Act.

10. We think that a Presidency Magistrate should record the evidence in all appealable cases, *i. e.*, as the Bill now stands, in all cases in which he inflicts a fine exceeding Rs. 200, or imprisonment for a term exceeding six months. We have altered section 115 accordingly. We have also amended the rules (section 16) relating to the record of confessions.

11. As the powers of Presidency Magistrates will be so much increased, we think that in all serious cases a formal charge should be compulsory. We therefore propose (section 116) to require a charge in all cases punishable with imprisonment for a term exceeding six months; and we have taken from the Code of Criminal Procedure, sections 126 and 127, provisions as to the time at which the charge shall be drawn up and as to explaining it to the accused.

12. We think that whenever the Magistrate inflicts imprisonment, or fine exceeding Rs. 50 (and not merely in cases which are appealable to the High Court), he should add to the final order a brief statement of the reasons for the conviction. We have provided for this in section 126.

13. We have empowered (section 146) a Presidency Magistrate to obtain, for the purposes of inquiries and trials, not only letters, but telegrams. But we have provided that when he is not the Senior Magistrate, the direction to deliver the letter or telegram required must come from the Senior Magistrate.

14. We have enabled (section 153) the Magistrate to examine the Chemical Examiner. As the latter official usually resides near at hand, there is not the same objection as there would be to calling him in the mofussil.

15. We have provided (section 158) that commissions addressed to the Magistrate of the District may be executed by such Magistrate of the first class as he appoints.

16. In the part of the Bill (sections 159—166) which relates to search-warrants, we have added sections corresponding with sections 382 and 386 of the Criminal Procedure Code.

17. We have extended (section 167) the right of appeal against convictions. As the Bill now stands, convicted persons may appeal where the Magistrate has sentenced them to imprisonment for a term exceeding *six* months, or to fine exceeding Rs. 200. The jurisdiction of the Magistrates without appeal will thus nearly correspond to what it is at present.

18. We see no objection to the principle of giving power to Government to appeal in case of acquittal—a principle which is recognized in the Code of Criminal Procedure. But by section 168 we have diminished, from six to two months, the period within which such appeals must be presented under the proposed Act; and we have empowered the High Court, on admitting the appeal, to order the accused to be arrested and to commit him to prison or release him on bail: in this respect the Code seems defective.

19. We have altered the section (181) relating to applications under Act X of 1875, section 147. Section 181 now provides that whenever such an application is made, the applicant shall give notice to the Public Prosecutor, &c., and that no order shall be made on the merits unless at least twenty-four hours have elapsed between the giving of the notice and the hearing.

20. We have struck out the clause giving appeals to the High Court in cases of contempt. Such cases will stand on the same footing with other decisions of Magistrates.

21. We have taken away the power to award costs as distinguished from compensation.

22. We have also struck out the power (taken from Madras Act VIII of 1868, section 15) to order the restitution of property forming the subject of a charge on which a conviction has been obtained. The matter seems to a majority of us sufficiently provided for by section 242.

23. The Bill in many cases required that a seal be affixed to warrants, charges and decisions. We see no practical advantage in these requirements and have therefore struck them out.

24. We have provided (section 232) that the sections relating to security for good behaviour shall not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act.

25. We have found it expedient to re-arrange the Bill. As last published, it closely followed the order of the present Code of Criminal Procedure, which order may for our purpose be usefully altered.

We have therefore divided the Bill into four Parts and twenty-one Chapters, arranged as follows:—

Part I contains the usual preliminary matter, and a chapter dealing with the constitution and powers of the Presidency Magistrates' Courts.

Part II treats of an ordinary case from its inception to execution. It deals successively with the following subjects: the place of enquiry: complaints: prosecutions in certain cases: summons: warrant: bail: enquiry into cases triable by the High Court: the charge: trial of cases: evidence: appeals: execution.

Part III relates to special proceedings and treats of the following subjects: criminal lunatics: contempts: security for keeping the peace: security for good behaviour: restoring possession of immoveable property: maintenance of wives and children.

Part IV contains some miscellaneous matters. It treats, for instance, of offences against the Railway, Telegraph, Post Office and Arms Acts. It provides for references of questions of law to the High Court: for the disposal of property respecting which an offence has been committed: for the payment of the expenses of complainants and witnesses: for giving information of certain offences; and for assisting the Magistrates and the Police to prevent a breach of the peace, to suppress a riot, and to take a person whose arrest is authorized.

26. We have found it expedient to make a number of amendments in the wording of the sections taken from the Code of Criminal Procedure.

27. We have been urged to extend to the Presidency Towns Chapter XXXIX (as to Local Nuisances) of the Code of Criminal Proceedure. But we think that the matter is more properly provided for by the local Municipal Acts.

28. We think that the Bill has been so altered that it should be republished, and we accordingly recommend that it be republished in the *Gazette of India*, in the *Calcutta Gazette*, the *Fort St. George Gazette* and the *Bombay Government Gazette*, and that its further consideration be stayed until the Council re-assembles in Calcutta.

T. C. HOPE.
A. HOBHOUSE.
E. C. BAYLEY.
JOHN INGLIS.
F. R. COCKERELL.

The 14th June 1876.

No. V.

THE PRESIDENCY MAGISTRATES' BILL, 1876.

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A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Whereas it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns, and to increase the jurisdiction of such Courts; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Presidency Magistrates' Act, 1876": Short title.

And it shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*. Commencement.

2. On and from that day the Acts mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule. Repeal of Acts.

3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law. Saving of powers under local laws.

4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule. Matters indicated in second schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section fourteen,

whether a warrant or a summons shall ordinarily issue in the first instance, and

whether the offence is bailable or not,

are indicated respectively by the third, fourth and fifth columns of the same schedule.

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Pending cases.

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

Definitions.

"writing" includes print, lithography, photography and engraving:

"writing."

"bailable offence" means an offence for, and "bailable case" means a case in, which bail may be taken under any law in force for the time being:

"bailable offence or case."

"non-bailable offence" means an offence for, and "non-bailable case" means a case in, which bail may not be taken under any law in force for the time being:

"non-bailable offence or case."

"chapter" means a chapter of this Act.

"chapter."

"place" includes also house, building and vessel; and

"place."

words which refer to acts done extend also to illegal omissions.

Words referring to acts done.

CHAPTER II.

CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

7. The Local Government may, with the sanction of the Governor General in Council,

Establishment of Presidency Magistrates' Courts.

(*a*) constitute within the towns of Calcutta, Madras, and Bombay respectively so many divisions as the said Government thinks fit,

(*b*) define the extent thereof respectively,

(*c*) from time to time alter the number of such divisions and their respective extents, and

(*d*) establish a Presidency Magistrate's Court for each of such divisions.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns respectively, and may suspend or remove any person so appointed.

Appointment of Presidency Magistrates.

Any such person may sit and act as a Magistrate in any of the said Courts.

Such persons shall be called Presidency Magistrates.

Every such person shall, by virtue of his office, be a Justice of the Peace for the town of which he is a Magistrate,

Presidency Magistrates to be Justices of the Peace.

and shall exercise jurisdiction in all places within the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Local limits of jurisdiction.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law in force immediately before the passing of this Act may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Bombay Court of Petty Sessions.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate. Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules consistent with this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Appointment and powers of Chief Magistrate.

Notwithstanding anything in the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

10. All references in any Act now in force to Magistrates of Police shall be deemed to be made to Presidency Magistrates.

References in Acts to Magistrates of Police.

11. Any Presidency Magistrate may pass the following sentences:—

Sentences which Presidency Magistrates may pass.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law):

Fine not exceeding one thousand rupees:

Whipping.

A Presidency Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this section shall exceed the punishment provided for the offence by the Indian Penal Code or the special or local law by which such offence is created.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine:

Imprisonment in default of payment of fine.

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to cases decided by Magistrate.

Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

13. When a person is convicted, at one trial, of two or more offences punishable under the same section, or different sections, of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Sentence in cases of simultaneous conviction of several offences.

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

14. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

Offences under enactments not specifying Court authorized to try.

15. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and when the offender is arrested may commit him to custody, or, if the offence is bailable, may admit him to bail.

Offence committed in Magistrate's presence.

16. A Presidency Magistrate may record any statement made to him at any place within the local limits of his jurisdiction by any person, or any confession made to him at any such place by any person accused of an offence.

Power to record statements and confessions.

Such statements and confessions shall be recorded in the manner prescribed in section 115 for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

Every confession shall be taken down as nearly as may be in the words used by the person making it, and shall be read over to him before it is recorded.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) A. B.,
Presidency Magistrate.

17. Upon complaint made to a Presidency Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge or government of such child, and may compel compliance with such order, using force if necessary.

Power to compel restoration of abducted females.

CHAPTER III.

THE PLACE OF INQUIRY AND TRIAL.

18. Every offence shall ordinarily be inquired into, and, if triable by a Magistrate, shall be tried in the district in which it was committed. If triable by a High Court, it shall (subject to the provisions of section 64 A of the Code of Criminal Procedure) be tried by the High Court to which the Magistrate commits.

Place for inquiry and trial of offence.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

19. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or any such consequence has ensued.

Accused triable in district where act done, or where consequence ensues.

Illustrations.

(*a.*) A is wounded in district X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in district X, and is, during twenty days, unable to follow his ordinary pursuits in district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in district Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in X or Y.

20. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it was committed, or in the district in which the other act was committed.

Place for trial where act is offence by reason of relation to other offence.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in the district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of their original concerted plan and with reference to their common object.

Place for inquiry or trial where scene of offence is uncertain;

or offence not committed in one district only;

or offence is continuing;

or consists of several acts in different districts:

21. When it is uncertain in which of several districts an offence was committed; or

where an offence is committed partly in one district and partly in another; or

where an offence is a continuing one and continues to be committed in more districts than one; or

where an offence consists of several acts done in different districts,

it may be inquired into and tried in any of such districts.

or offence is committed on journey or voyage.

An offence committed on a journey or voyage may be inquired into and tried in any district through or into which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Being a thug or dacoit. Escaping from custody.

22. The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody may be inquired into and tried wherever the accused person happens to be when the complaint is made.

Criminal misappropriation and criminal breach of trust.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

Murder as a thug, dacoity or dacoity with murder.

The offence of murder as a thug, dacoity or dacoity with murder, may be inquired into and tried wherever the person accused happens to be when arrested, or in any other district in which he might be tried under any other provision of this Act, or any other law relating to the trial of such offence.

Stealing cattle.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen or in any other district through or into which it was conveyed.

High Court to decide in case of doubt district where inquiry shall take place.

23. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

24. No sentence or order of any criminal Court shall be liable to be set aside merely on the ground that the inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person in his defence, or the prosecutor in his prosecution, was actually prejudiced by such error, in either of which cases a new trial may be ordered.

CHAPTER IV.

OF COMPLAINTS TO A PRESIDENCY MAGISTRATE.

When Presidency Magistrate may take cognizance of offences.

25. A Presidency Magistrate may take cognizance of any offence—

(*a*) upon a complaint by a private person,

(*b*) upon information or report by a Police-officer,

(*c*) upon information received under section 245.

Who may make complaints.

26. Any person acquainted with the facts of a case may make a complaint.

Every such information or report shall be regarded as a complaint.

Process to compel appearance.

27. On receipt of a complaint a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance.

Jurisdiction given by complaint.

28. A complaint gives jurisdiction to a Presidency Magistrate to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial, and also to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint, of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

Magistrate to examine complainant.

30. Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

Effect of omission.

Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Postponement of issue of process.

31. If the Magistrate sees cause to distrust the truth of the complaint, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made, either by means of any officer subordinate to such Magistrate, or of a local Police-officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

Dismissal of complaint.

32. The Magistrate before whom the complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

Issue of process.

33. If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

When summons may issue.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear to answer the complaint, at a certain time and place, before such Magistrate as may then be there.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

Where warrant or summons may issue on complaint.

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed—

(*a*) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

(*b*) any offence triable exclusively by the High Court, or which, in the opinion of such Magistrate, ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

Warrant to arrest, if summons not obeyed.

36. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what he deems a reasonable time before the time therein appointed for appearing pursuant thereto,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

37. Whenever the Magistrate issues a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney or pleader.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

CHAPTER V.

OF PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such complaint, or unless it be made by the Advocate General.

Prosecution of Judges and public servants.

39. A complaint of an offence of which any Judge, or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction, or under the direction,

(*a*) of the Government, or

(*b*) of some officer empowered in this behalf by the Government, or

(*c*) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

Power of Government as to prosecution.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

Definition of 'Government,' 'Judge,' and 'public servant.'

In this section, the expression 'Government' means either the Local Government or the Governor General in Council, and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

Prosecution for contempts of the lawful authority of public servants.

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180 or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned or of his official superior.

Sanction to prosecution for certain offences against public justice.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

42. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be received against a party to such proceedings, by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

43. The sanction referred to in sections 40, 41 and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the court or other place in which, and the occasion on which, the offence is alleged to have been committed.

Nature of sanction necessary.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

44. When any civil, criminal, or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41 or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

Procedure in cases mentioned in section 40, 41 or 42.

The Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence in the case.

45. A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

Prosecution for enticing away married woman.

46. The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

Application to be deemed a complaint.

CHAPTER VI.

OF THE SUMMONS AND WARRANT.

47. Every summons issued by a Presidency Magistrate to an accused person shall be in writing signed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

Form of summons.

48. If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Summons how served.

Every person to whom a summons is delivered or tendered under this section, shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

49. If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service when accused cannot be found.

When the person summoned is in the service of Government or of any Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

Service on servants of Government and Railway Companies.

50. When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

Service of summons outside Presidency Towns.

51. When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved

Proof of service in such cases and when server not present.

(*a*) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(*b*) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(*c*) by a receipt under section 48.

52. The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

53. A Presidency Magistrate may, notwithstanding the issue of a summons under this Chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him.

Issue of warrant in addition to summons.

54. A Presidency Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall either send such person the the Magistrate within to local limits of whose jurisdiction the offence is alleged to have been committed, or if the offence is bailable, take bail for his appearance before such Magistrate.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency Magistrate shall be in writing under his hand, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form of warrant.

Every warrant issued under this Act remains in force until it is cancelled by the Magistrate who issued it, or until it is executed.

Force of warrant of arrest.

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Fees for summonses and warrants.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Power to remit fees.

58. A Presidency Magistrate, in issuing a warrant for the arrest of any person, may in his discretion direct by endorsement on the warrant that, if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

When Magistrate may direct bail to be taken.

The endorsement shall state (*a*) the number of sureties, (*b*) the amount in which they and the accused person are to be respectively bound, and (*c*) the day on which he is to appear before the Magistrate.

If bail be taken, the said officer shall forward the recognizance to the Presidency Magistrate.

Recognizance to be forwarded.

59. A warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police-officer be immediately available, direct it to any other person.

Warrants to whom directed.

60. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

61. A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Execution of warrant by Police-officer other than the one addressed.

62. Any Presidency Magistrate who issues a warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

Any such Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he may issue a warrant.

Arrest in presence of Magistrate.

63. A warrant issued by a Presidency Magistrate shall ordinarily be executed within the local limits of his jurisdiction.

Where warrant may be executed.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Execution of warrant outside issuing Magistrate's jurisdiction.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for indorsement either by post or by any Police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall indorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a Police-officer, to whom it is directed, he may take it either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Procedure on execution of warrant outside issuer's jurisdiction.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or Police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

Magistrate and Police-officer.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days from the date of publishing the proclamation.

Proclamation for person absconding.

Proclamation how published.

Such proclamation shall be published as follows—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(*b*) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of such Magistrate's Court-house.

Evidence of publication.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the District in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, (*a*) by seizure under the order of the Magistrate having jurisdiction; or (*b*) by the appointment of a manager and receiver; or (*c*) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68 appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of forfeited property.

CHAPTER VII.

OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

Custody of person arrested.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that cases in which the Magistrate has power to inflict fine only, or imprisonment for a term not exceeding six months, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

When bail shall be taken.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail shall not be taken.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Warrant for intermediate custody.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and if required, shall appear when called upon at the High Court, to answer the charge.

Recognizance of accused and sureties.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him, and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

Discharge on bail.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

Admission to bail after failure in first instance.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the accused person may be ordered by a Presidency Magistrate to find sufficient bail, and on failing so to do may be committed to prison.

Power to order sufficient bail when that first taken is insufficient.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

Discharge of sureties.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

In what cases powers given by sections 77 and 78 may be exercised.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

Remission of part of penalty.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

Deposit instead of bail.

CHAPTER VIII.

OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

81. Cases, triable by a High Court in the exercise of its ordinary original criminal jurisdiction, or which, in the opinion of the Presidency Magistrate before whom the accused person is brought, ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

Procedure in preliminary inquiries.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney or pleader, the Magistrate shall at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Examination of complainant and witnesses for prosecution.

Such evidence shall be recorded in the manner described in clauses 2, 3 and 4 of section 115.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney, or pleader (if any).

Examination to be in presence of accused.

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Procedure in inquiries preliminary to commitment.

The accused person or his advocate, attorney or pleader shall be permitted to examine his own witnesses, to cross-examine the complainant and his witnesses, and to re-examine his own witnesses, in accordance with the Indian Evidence Act, 1872.

Accused may examine, cross-examine and re-examine.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

Examination of accused how recorded.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

85. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

Power of Magistrate to summon and examine any person.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit and remand the accused person for a reasonable time not exceeding fifteen days.

Adjournment of inquiry and remand.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

87. When a Presidency Magistrate finds that there are not sufficient grounds for committing the accused person for trial before the High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be tried before himself, in which case he shall proceed accordingly.

When accused person to be discharged.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

88. When evidence has been given before a Presidency Magistrate, which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such Court, the accused person shall be committed for trial accordingly.

When accused to be committed for trial.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Courts' Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

Framing of charge on which accused is to be tried before High Court.

All such charges shall be drawn up in accordance with the provisions of Chapter IX.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect; and the charge, the record of the enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Form of commitment.

Charge, &c., to be forwarded to High Court.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by

Commitment when to be notified.

the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

90. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy thereof shall be furnished to him, if he so require.

Charge to be explained, and copy furnished, to accused.

91. The accused person shall be required at once to give in, orally or in writing, a list of the persons whom he wishes to be summoned to give evidence on his trial before the High Court.

List of witnesses for defence on trial before High Court.

The Magistrate may, if he thinks proper, summon all or any such persons to attend and give evidence at the enquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

The Magistrate may in his discretion allow the accused person to give in any further list of witnesses at a subsequent time.

Further list.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Power to summon supplementary witnesses.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

92. When the person accused is to be committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Summons to witnesses when accused person is to be committed.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (H) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Recognizances of complainants and witnesses.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

Detention in custody in case of refusal to attend or to execute recognizance.

CHAPTER IX.

OF THE CHARGE.

Form of Charges.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Charge to state offence.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

Specific name of offence sufficient description.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

How stated where offence has no specific name.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

What implied in charges.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Language of charge.

If the accused person has been previously convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Previous conviction when to be set out.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

Particulars as to time, place and person.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When manner of committing offence must be stated.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

97. The charge may be in the form given in the third schedule to this Act or to the like effect.

Forms in schedule.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Effect of errors.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Prisoner may apply for amendment.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Magistrate may alter charge.

Every such alteration shall be read and explained to the accused person.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When trial may proceed immediately after alteration.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial, to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When new trial may be directed or trial suspended.

Adjournment.

103. In all cases of alteration of a charge the complainant and accused person shall be allowed to recall and examine with reference to such alteration any witness who may have been examined.

Recall of witnesses when charge altered.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

Joinder of Charges.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

106. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

More offences than one of same kind may be charged within a year of each other.

107. I.—If in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

I.—Trial of more than one offence.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

II.—One offence falling within two definitions.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d.*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 333 and 152 of the Indian Penal Code.

(*g.*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (*a*) to (*h*) respectively may be tried at the same time.

To paragraph II.

(*i.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(*j.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcase in order to take it dishonestly out of B's possession without B's consent. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(*k.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(*l.*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

To paragraph III.

(*m.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(*n.*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(*o.*) A entices B, the wife of C, away from C with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

108. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor or other officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Withdrawal of remaining charges on conviction on one of several charges.

Previous Acquittals or Convictions.

113. A person who has once been tried for an offence and convicted or acquitted of such offence, shall while such conviction or acquittal remains in force not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

Person once convicted or acquitted not to be tried for same offence.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts, which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried, under section 270 of the Indian Pena Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph three of this section.

(*f.*) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same acts.

(*g.*) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same fact.

CHAPTER X.

OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,

(*b*) the date of the commission of the offence,

(*c*) the name of the complainant,

(*d*) the name of the accused person,

(*e*) the offence complained of or proved,

(*f*) the prisoner's plea,

(*g*) the final order,

(*h*) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months, unless he has recorded the evidence of the witnesses.

Record of evidence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

Where the Magistrate records such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of a narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

116. In cases in which the Magistrate has power to impose fine only, or imprisonment for a term not exceeding six months, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, and which, from the facts proved, he appears to have committed.

Charge when dispensed with.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

Charge when necessary.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

118. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless he thinks fit to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Dismissal or adjournment on non-appearance of complainant.

119. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

120. If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

121. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *primâ facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

122. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

123. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If on such day the complainant does not appear, the Magistrate may dismiss the complaint.

124. Whenever any person causes a police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to person groundlessly given in charge or complained against.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine.

125. If a complainant, at any time before a final order is passed in any case in which the Presidency Magistrate may impose fine only or imprisonment for a term not exceeding six

Withdrawal of complaint.

months, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

Acquittal.

126. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Sentence.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding fifty rupees, or both, he shall add to the final order mentioned in section 114, clause (*g*), a brief statement of the reasons for the conviction.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.

127. If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

Trial of persons previously convicted of offences against coinage, stamp law or property.

128. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

General Provisions as to Inquiries and Trials.

Permission to conduct prosecution.

129. A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate General, Standing Counsel and Government Solicitor shall be entitled to do so without such permission.

Any person conducting the case may do so personally or by an advocate, attorney, or pleader.

Right of accused to be defended.

130. Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

Procedure where accused does not understand proceedings.

131. If an accused person, though not insane, cannot be made to understand the proceedings, the Magistrate may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Presidency Magistrates' Courts to be open.

132. The place in which the court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

Compounding offences.

133. In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

CHAPTER XI.

OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

Power to summon material witness or examine person present.

134. Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

135. If a Presidency Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Arrest of person disobeying summons.

136. If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

Procedure when warrant cannot be served.

137. If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property

belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

Attachment, &c., of property ordered to be attached under section 137.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Power to order prisoner in jail to be brought up for examination.

139. Notwithstanding any thing contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person in any case pending before him, any person confined in any jail within the local limits of his jurisdiction may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Power to require complainants, &c., to execute recognizances.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Committal of person refusing to answer.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate 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 meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

B.—Of Witnesses.

In cases tried upon summons.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

(*a*) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused;

(*b*) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

In cases tried upon warrant.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

The Magistrate shall also summon any witness, and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

C.—Of Securing Documentary Evidence.

Summons to produce document required as evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry, trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Issue of search-warrant in first instance.

145. Where there is reason to believe that the person to whom the summons is addressed will not produce the document or other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Procedure as to letters and telegrams in custody of Postal Department or telegraph officer.

146. If any letter in the custody of the Postal Department, or any telegram in the custody of any telegraph officer as defined in Act No. I of 1876, is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities or such telegraph officer (as the case may be) to deliver such letter or telegram to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

The letter or telegram referred to in any direction given under this section shall be delivered accordingly.

Power to impound document produced.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

D.—Of the Examination of Accused Persons.

Examination of accused.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not

only in such inquiry or trial, but also in any other inquiry into or trial for any other offence which such answer may tend to show he has committed.

149. Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

150. A Presidency Magistrate may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Tender of pardon to accomplice.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

151. When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the condition under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered or for any other offence of which he may appear to have been guilty in connection with the same matter.

Commitment of person to whom pardon has been tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

E.—Special Rules of Evidence.

152. The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

Deposition of medical witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness.

153. Any document purporting to be a report from the chemical examiner, or a-sistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

Report of chemical examiner.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Genuineness of signature may be presumed.

The Presidency Magistrate may, if he thinks fit, summon and examine such chemical examiner or assistant chemical examiner as to the subject-matter of his said report.

Power to summon chemical examiner.

154. A previous conviction or acquittal may be proved (*a*) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (*b*) in case of a conviction, by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted.

Previous conviction or acquittal how proved.

155. If an accused person abscond, and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

Record of evidence in absence of accused.

156. Whenever any Presidency Magistrate, after having heard the whole or any part of the evidence in an enquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial.

Convictions on evidence partly recorded by one Magistrate and partly by another.

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and reheard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

157. Whenever in the course of a trial under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

When attendance of witness may be dispensed with.

158. Such Magistrate may direct a commission to any Magistrate of the District or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

Issue of commission and procedure thereunder.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take the evidence of such witness in the same manner, and may for this purpose exercise the same powers as in trials of warrant cases under the Code of Criminal Procedure.

If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, other than the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

Commission in case of witness being within Presidency town.

The complainant and the accused person may respectively forward interrogatories in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

Complainant and accused may examine witness.

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

Return of commission.

F.—Of Search-warrants.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

Search-warrant when grantable.

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorise a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

Search of house suspected to contain stolen property or forged documents.

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, and by force if necessary, such place, and

(*b*) to search the same as specified in the warrant, and

(*c*) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

161. The provisions of sections 59 to 62, both inclusive, shall apply to all search-warrants issued under this chapter.

Direction, &c., of search-warrants.

162. Whenever any house or place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such house or place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed house to allow search.

163. A Police-officer or other person, authorized by a warrant to search any house or place, may break open any outer or inner door or window of such house or place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Place to be searched may be broken open.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

Search of zanána.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with

this section for preventing the clandestine removal of the thing mentioned in the warrant.

Search to be made in presence of witnesses.

165. Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

Occupant of place searched may attend.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Mode of searching women.

166. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

CHAPTER XII.

OF APPEALS.

Appeal by person convicted.

167. Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees:

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

For the purposes of the Indian Limitation Act 1871, all appeals under this section and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

Appeal by Government from order of acquittal.

168. The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal, or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

Copy of order to accompany petition.

169. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copies of proceedings.

170. If any person affected by an order passed under this Act desires to have a copy of such order or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

Procedure when appellant in jail.

171. If the appellant be in jail, he shall be at liberty to present his petition of appeal and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

Procedure on receiving petition of appeal.

172. On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

Power to reject appeal summarily.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Power to call for record.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

Sentence not to be enhanced when appeal rejected under this section.

In rejecting under this section an appeal by a person convicted the High Court shall not enhance the sentence.

Notice of day for hearing appeal.

173. If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the public prosecutor, Government solicitor, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard,

and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

Service of notice.

All such notices shall be served in manner provided by this Act for serving a summons.

High Court may alter or reverse finding and sentence, or enhance sentence.

174. The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government solicitor or other officer empowered by Government in this behalf, if he appears, may—

(*a*) alter or reverse the order of such Court, or

(*b*) enhance any punishment that has been awarded, but not so as to inflict a greater punishment than is prescribed by law for the offence, or

(*c*) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or

(*d*) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

Suspension of sentence pending appeal. Release of appellant on bail.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

High Court may make or direct further inquiry.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader, shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

Order when reversible by reason of error or defect in charge or proceedings.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

Irregularity before trial properly held.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

Procedure in case of conviction by Magistrate not having jurisdiction.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation in case of a groundless complaint.

(*b.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*c.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*d.*) There is no appeal against an order of maintenance.

Notice to Public Prosecutor of intention to apply under Act X of 1875, s. 147.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

CHAPTER XIII.

OF EXECUTION.

Court to send accused with warrant for execution of sentence to officer in charge of jail.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

Form and direction of warrant of commitment.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (F) given in the third schedule to this Act or to the like effect.

Levy of fine.

185. Whenever a fine is imposed under this Act, the Presidency Magistrate may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Section to what cases applicable.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

Detention of offender until return made to distress-warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

Distress not illegal, nor distrainer a trespasser for defect of form in proceedings.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

Who may issue distress-warrant.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

Payment of fine in compensation.

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Mode of inflicting punishment of whipping.

In no case, if the cat-o'-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo such punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

190. No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Procedure if punishment cannot be inflicted under section 188.

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and, if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

Currency of sentence on escaped convicts.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.

Commencement of sentence on offender already sentenced for other offence.

CHAPTER XIV.

OF LUNATICS.

194. When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall enquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officer as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

Procedure when accused is a lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

195. When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act, or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

When accused appears to have been insane.

196. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

Release of lunatic on bail.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

Custody when bail not given.

197. Whenever proceedings are stayed under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

Resumption of inquiry or trial.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

198. If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

199. Whenever any person is acquitted by a Presidency Magistrate upon the ground that, at the time at which such person is alleged to have committed an offence he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

Finding in case of acquittal on ground of being lunatic.

200. Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Procedure when lunatic committed the act alleged.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

201. When any person is confined under the provisions of section 196 or 200, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

202. If such person is confined under section 196, and such Inspector-General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

203. If such person is confined under the provisions of section 200, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 199 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

204. Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XV.

OF CONTEMPTS OF COURT.

205. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

In every such case, the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender as well as 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 Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

206. If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 205 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence, and the statement of the accused person, shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

207. When any Presidency Magistrate has sentenced an offender to punishment, or forwarded him to another 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 former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

Discharge of offender on submission or apology.

CHAPTER XVI.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

208. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

209. Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace, in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term not exceeding one year as the Magistrate thinks fit.

Sureties for keeping the peace.

210. If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Commencement of period during which person may be bound to keep peace.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs, the judgment, the person so convicted must be produced before the Magistrate making such order.

211. Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Extension of time for which person is bound.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period not exceeding one year from the expiration of the first year.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on

which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

B.—Security for Good Behaviour.

212. Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties for his good behaviour for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

213. Whenever it is proved before a Presidency Magistrate that any person is by repute

When Magistrate may require security for good behaviour for one year.

a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

or of a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

214. Whenever it is proved before a Presidency Magistrate that any person is

Procedure where security required for more than one year.

an habitual robber, house-breaker or thief,

or an habitual receiver of stolen property, knowing the same to have been stolen,

or of a dangerous character

and that his release without security, at the expiration of the limited period of one year, would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

C.—Provisions as to both kinds of Security.

215. Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213 and 214, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

EXPLANATION I.—A summons calling on a person to show cause why he should not execute such recognizance, may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may, if he thinks fit, recall any summons issued under this section.

216. Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace or to be one of the persons referred to in sections 212, 213 and 214, is present in Court no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

217. If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant) that there is reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

218. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney or pleader.

Magistrate may dispense with personal attendance of person informed against.

219. If on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace, or to be of good behaviour the Magistrate shall direct his discharge.

Discharge of person informed against.

220. If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

Order to give bond and consequence of non-compliance.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

221. If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence

which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

Contents of order for security.

222. Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force, shall be stated in the order, and the recognizance shall be in the form (H) or (I) as the case may be, given in the third schedule hereto annexed or to the like effect.

Form of recognizance.

Imprisonment in default of security.

223. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Term of imprisonment.

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

Binding of sentenced person.

224. If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

Release of prisoners under requisition of security.

225. A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order, or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

Release of prisoner under requisition of security by order of High Court.

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Discharge of sureties.

226. A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

Commission, &c., of offence a breach.

227. The commission, or attempt to commit, or the abetment, of any offence whatever, and wherever it may be committed, is a breach of the recognizance.

Recovery of penalty from principal.

228. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof and call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits, when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

Recovery of penalty from surety.

229. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

Proof of previous conviction.

230. Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 153.

Where proceedings under this chapter may be taken.

231. Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

Provisions of chapter not applying to European vagrants.

232. The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

CHAPTER XVII.

OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

Power to restore possession of immoveable property.

233. Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVIII.

OF THE MAINTENANCE OF WIVES AND FAMILIES.

Order for maintenance of wives and children.

234. If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife, or child, or both, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

Enforcement of order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Proviso.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

Alteration in allowance.

235. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Enforcement of order.

236. A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XIX.

MISCELLANEOUS.

Procedure in miscellaneous criminal cases and proceedings.

237. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

238. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

Extent of jurisdiction.

239. The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

Reference to High Court.

240. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to jail or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

241. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

Direction as to costs.

The High Court may direct by whom the costs of the reference shall be paid.

Order for disposal of property regarding which offence committed.

242. When the inquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Power to order disposal of property connected with charge, in Police-custody.

243. If any property alleged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty,

or if any property has been seized by a Police-officer under chapter XI,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him, so that the suit be instituted within six months next after such order has been made.

Expenses of complainants and witnesses.

244. Subject to any rules that may be made by the Local Government, with the previous sanction of the Governor General in Council, a Presidency Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

All persons to give information of certain offences.

245. Every person aware of the commission within the local limits of the jurisdiction of a Presidency Magistrate of any offence made punishable under sections 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Presidency Magistrate.

All persons to assist Magistrate and Police in certain cases.

246. Within such local limits every person is bound to assist a Presidency Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest.

SCHEDULE I.

ACTS REPEALED.

(SEE SECTION 2.)

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and" Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one-hundred to one-hundred-and-four (both inclusive), one-hundred-and-six, one-hundred-and-eight to one-hundred-and-eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May rrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ..	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Ditto ...	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly ...	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
147	Rioting	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting armed with a deadly weapon ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence ...	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	Or to go armed	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in, or delivered to, a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offene, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ..	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ..	Ditto ..	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto ...	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
209	False claim in a Court of Justice ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Pubilc servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable.	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto ...	Summons ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence... ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death	May arrest without warrant.	Warrant ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation ...	Ditto ...	Ditto ...	Not bailable.	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of Police.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp ...	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp ...	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
275	Offering for sale, or issuing from a dispensary, any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
276	Knowingly selling, or issuing from a dispensary, any drug or medical preparation as a different drug or medical preparation.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health ...	Shall not arrest without warrant.	Ditto ..	Ditto ...	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
286	So dealing with any explosive substance ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall or linarily issue in the first instance.	Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
294	Obscene songs	Ditto ..	Ditto ..	Ditto ...	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant ...	Not bailable	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant ...	Not bailable	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto ...	Ditto ...	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine.	High Court.
306	Abetting the commission of suicide ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above...	Ditto.
308	Attempt to commit culpable homicide ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, on both.	Ditto.
	If such act cause hurt to any person ..	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year and fine.	Magistrate.
311	Being a thug	Ditto ...	Ditto ...	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child ..	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto ...	Ditto ..	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
	Of Hurt.					
323	Voluntarily causing hurt	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ..	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restaint and wrongful Confinement.

341	Wrongfully restraining any person ...	May arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave...	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant ...	Not bailable	Transportation of life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court or Magistrate.

382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant ...	Not bailable	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court.
396	Murder in dacoity	Ditto ...	Ditto ...	Ditto ...	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
399	Making preparation to commit dacoity ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ..	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
453	Lurking house-trespass or house-breaking ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery	Shall not arrest without warrant.	Warrant ...	Bailable ..	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery ...	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Not bailable	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the document is a valuable security or will	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*concluded.*

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
489	Removing, destroying, or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Utterring any word or making any gesture intended to insult the modesty of a woman.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ..	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto ..	Ditto ..	Ditto ...	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ..	Bailable ...	.....	Magistrate.
	If punishable with fine only	Ditto ..	Ditto ...	Ditto ..	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 47).

To *A. B.*, of

Whereas complaint has this day been made before the undersigned Presidency Magistrate for the Town of that you on the day of 187 at (*state shortly the offence complained of*) contrary to section of the Indian Penal Code [*or* of Act No. of 18 , *as the case may be*] : You are hereby required to appear in person [*or* by advocate, attorney or pleader, *as the case may be*] on the day of 187 , at o'clock in the forenoon [*or* afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint and to be further dealt with according to law.

Dated the day of

(*Signed*) C. D.
Presidency Magistrate.

B.

FORM OF WARRANT OF ARREST (*section* 56).

To (*name and designation of the person who is to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(*Signature.*)

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 71).

To the officer in charge of the

Whereas of is accused of ( ) you are hereby required to receive the said into your custody and to produce him before by whom [*or* which] the offence of which he is accused is to be tried [*or* enquired into] from time to time when so required.

D.

FORM OF RECOGNIZANCE (*section* 72).

We A. B. of , C. D. of and E. F. of do hereby bind ourselves jointly and severally that the said A. B. will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when called upon at the High Court of Judicature at to answer the charge of , and in case of the said A. B. making default herein, we the said A. B., C. D. and E. F. bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated the dayof 187 .

E.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH COURT (*section* 89.)

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)
(*Office and powers.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*section* 93).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF WARRANT OF COMMITMENT AFTER SENTENCE (*section* 183).

To , the officer in charge of the Jail.

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*) and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*): You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE (*section* 222).

Whereas I, A. B., [*or* we A. B., C. D., etc.], of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself [*or* each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my [*or* any of us] making default therein, I bind myself [*or* he binds himself] to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.

I E. F. of hereby declare myself surety for the above-mentioned A. B., that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

I.

FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR (*section* 222).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 97).

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

(*b.*) That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code section 121.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature of the Magistrate.*]

[*To be substituted for* (*b*)].

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 124.

(3.) That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(5.) That you, on or about the day of at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(6.) That you, on or about the day of , at voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(9.) That you, on or about the day of , at , did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(10.) That you, on or about the day of at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable

On section 193.

under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[*In cases tried by Magistrates, substitute* "within my cognizance" *for* "within the cognizance of the High Court." *In* (*c*, *omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*.) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*], as follows:—

(*b*.) *First*.—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code, sections 241 and 242.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c*.) And I hereby commit you to the said Court to be tried on the said charge.

[*Signature of the Magistrate*.]

For (*b*) *First*.—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*) *First*.—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

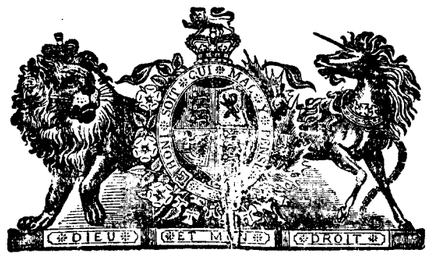
Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before , stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of before , stated in evidence that " ," *one of* which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the High Court," *and omit* "by the said Court."

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 1, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd June 1876:—

We, the undersigned Members of the Select Committee to which the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Note by the Hon'ble A. G. Macpherson, dated 28th February 1876.
Proposed re-arrangement of the Bill by the Secretary, Legislative Department.
From Government of Bombay, No. 1279, dated 24th February 1876.
" Honorary Secretary, British Indian Association, dated 8th March 1876.
" Honorary Secretary to the Calcutta Attornies' Association, dated 4th March 1876.
Opinion by W. E. B. Forsyth, Esq., dated 25th February 1876.
Remarks by the Senior Magistrate, Madras, dated 7th March 1876.
From Government of Bengal, No. 938 J., dated 13th March 1876, and enclosures.
Summary of demi-official remarks by the Senior Magistrates of Madras and Bombay.
From Superintendent and Remembrancer of Legal Affairs, No. 1773, dated 29th March 1876.
From Government of Madras, No. 719, dated 13th April 1876, and enclosures.
From Government of Bombay, No. 3996, dated 12th July 1875.
From Government of Madras, No. 1673, dated 19th July 1875, and enclosures.
Petition from Bombay Association, dated 18th May 1876.
Memorial of the British Indian Association, dated 2nd June 1876.
From Home Department, No. 872 J., dated 1st June 1876, and enclosures.
Note by Hon'ble T. C. Hope, dated 6th June 1876.
From Home Department, No. 971 J., dated 12th June 1876, and enclosures.
" do. do., No. 981 J., dated 14th June 1876, forwarding letter from Government of Bengal, No. 3234, dated 17th November 1875.
From Home Department, No. 979 J., dated 14th June 1876, forwarding letter from Government of Bombay, No. 2990, dated 30th September 1875, and enclosures.

2. We have provided (section 1) that the Bill shall come into force, not at once, but on such day as the Governor General in Council directs by notification.

3. We have defined the word 'place,' and have struck out as unnecessary the definitions of 'special and local law,' 'inquiry,' 'inquired into,' 'cognizable and non-cognizable offence,' 'Magistrate,' 'High Court.'

4. For the same reason we have omitted the clause relating to the salaries of Presidency Magistrates.

5. We have also omitted the provision that such Magistrates shall exercise the powers which under any law may be exercised by two Justices of the Peace.

6. We have struck out the clause declaring that *all* existing Magistrates of Police (honorary as well as stipendiary) shall be deemed Presidency Magistrates under the proposed Act. The Local Governments will therefore have to make timely arrangements for re-appointing

such of those Magistrates as they may deem fit to exercise the enhanced powers which Presidency Magistrates will possess.

7. We have provided (section 11) that no punishment inflicted by a Presidency Magistrate shall exceed the punishment provided for the offence by the Penal Code or other law creating it. Under the Bill, as it recently stood, a Magistrate might give two years' imprisonment for criminal trespass.

8. We have struck out as unsuited to the Presidency towns the provisions authorizing the issue of process upon mere suspicion entertained by a Magistrate.

9. We do not think it expedient that any previous conviction should be allowed to be proved in order to enhance punishment: we have therefore (section 94) confined for this purpose previous convictions to those of offences against property, of offences relating to coin and stamps, and of the other offences enumerated in sections 2 and 4 of the Whipping Act.

10. We think that a Presidency Magistrate should record the evidence in all appealable cases, *i. e.*, as the Bill now stands, in all cases in which he inflicts a fine exceeding Rs. 200, or imprisonment for a term exceeding six months. We have altered section 115 accordingly. We have also amended the rules (section 16) relating to the record of confessions.

11. As the powers of Presidency Magistrates will be so much increased, we think that in all serious cases a formal charge should be compulsory. We therefore propose (section 116) to require a charge in all cases punishable with imprisonment for a term exceeding six months; and we have taken from the Code of Criminal Procedure, sections 126 and 127, provisions as to the time at which the charge shall be drawn up and as to explaining it to the accused.

12. We think that whenever the Magistrate inflicts imprisonment, or fine exceeding Rs. 50 (and not merely in cases which are appealable to the High Court), he should add to the final order a brief statement of the reasons for the conviction. We have provided for this in section 126.

13. We have empowered (section 146) a Presidency Magistrate to obtain, for the purposes of inquiries and trials, not only letters, but telegrams. But we have provided that when he is not the Senior (or, as we propose to call him, the Chief) Magistrate, the direction to deliver the letter or telegram required must come from the Chief Magistrate.

14. We have enabled (section 153) the Magistrate to examine the Chemical Examiner. As the latter official usually resides near at hand, there is not the same objection as there would be to calling him in the mofussil.

15. We have provided (section 158) that commissions addressed to the Magistrate of the District may be executed by such Magistrate of the first class as he appoints.

16. In the part of the Bill (sections 159—166) which relates to search-warrants, we have added sections corresponding with sections 382 and 386 of the Criminal Procedure Code.

17. We have extended (section 167) the right of appeal against convictions. As the Bill now stands, convicted persons may appeal where the Magistrate has sentenced them to imprisonment for a term exceeding *six* months, or to fine exceeding Rs. 200. The jurisdiction of the Magistrates without appeal will thus nearly correspond to what it is at present.

18. We see no objection to the principle of giving power to Government to appeal in case of acquittal—a principle which is recognized in the Code of Criminal Procedure. But by section 168 we have diminished, from six to two months, the period within which such appeals must be presented under the proposed Act; and we have empowered the High Court, on admitting the appeal, to order the accused to be arrested and to commit him to prison or release him on bail: in this respect the Code seems defective.

19. We have altered the section (181) relating to applications under Act X of 1875 section 147. Section 181 now provides that whenever such an application is made, the applicant shall give notice to the Public Prosecutor, &c., and that no order shall be made on the merits unless at least twenty-four hours have elapsed between the giving of the notice and the hearing.

20. We have struck out the clause giving appeals to the High Court in cases of contempt. Such cases will stand on the same footing with other decisions of Magistrates.

21. We have taken away the power to award costs as distinguished from compensation.

22. We have also struck out the power (taken from Madras Act VIII of 1868, section 15) to order the restitution of property forming the subject of a charge on which a conviction has been obtained. The matter seems to a majority of us sufficiently provided for by section 242.

23. The Bill in many cases required that a seal be affixed to warrants, charges and decisions. We see no practical advantage in these requirements and have therefore struck them out.

24. We have provided (section 232) that the sections relating to security for good behaviour shall not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act.

25. We have found it expedient to re-arrange the Bill. As last published, it closely followed the order of the present Code of Criminal Procedure, which order may for our purpose be usefully altered.

We have therefore divided the Bill into four Parts and nineteen Chapters, arranged as follows:—

Part I contains the usual preliminary matter, and a chapter dealing with the constitution and powers of the Presidency Magistrates' Courts.

Part II treats of an ordinary case from its inception to execution. It deals successively with the following subjects: the place of enquiry: complaints: prosecutions in certain cases: summons: warrant: bail: enquiry into cases triable by the High Court: the charge: trial of cases: evidence: appeals: execution.

Part III relates to special proceedings and treats of the following subjects: criminal lunatics: contempts: security for keeping the peace: security for good behaviour: restoring possession of immoveable property: maintenance of wives and children.

Part IV contains some miscellaneous matters. It treats, for instance, of offences against the Railway, Telegraph, Post Office and Arms Acts. It provides for references of questions of law to the High Court: for the disposal of property respecting which an offence has been committed: for the payment of the expenses of complainants and witnesses: for giving information of certain offences; and for assisting the Magistrates and the Police to prevent a breach of the peace, to suppress a riot, and to take a person whose arrest is authorized.

26. We have found it expedient to make a number of amendments in the wording of the sections taken from the Code of Criminal Procedure.

27. We have been urged to extend to the Presidency Towns Chapter XXXIX (as to Local Nuisances) of the Code of Criminal Proceedure. But we think that the matter is more properly provided for by the local Municipal Acts.

28. We think that the Bill has been so altered that it should be republished, and we accordingly recommend that it be republished in the *Gazette of India*, in the *Calcutta Gazette*, the *Fort St. George Gazette* and the *Bombay Government Gazette*, and that its further consideration be stayed until the Council re-assembles in Calcutta.

T. C. HOPE.
A. HOBHOUSE.
E. C. BAYLEY.
JOHN INGLIS.
F. R. COCKERELL.

The 14th June 1876.

No. V.

THE PRESIDENCY MAGISTRATES' BILL, 1876.

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A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Preamble. Whereas it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns, and to increase the jurisdiction of such Courts; It is hereby enacted as follows:—

PART I.

CHAPTER I.—PRELIMINARY.

Short title. 1. This Act may be called "The Presidency Magistrates' Act, 1876":

Commencement. And it shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*.

Repeal of Acts. 2. On and from that day the Acts mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

Saving of powers under local laws. 3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law.

Matters indicated in second schedule. 4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section fourteen,

whether a warrant or a summons shall ordinarily issue in the first instance, and

whether the offence is bailable or not,

are indicated respectively by the third, fourth and fifth columns of the same schedule.

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

Pending cases.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Definitions.

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

"writing." "writing" includes print, lithography, photography and engraving:

"bailable offence." "bailable offence" means an offence for, and "bailable case" means a case in, which bail may be taken under any law in force for the time being:

"non-bailable offence." "non-bailable offence" means an offence for, and "non-bailable case" means a case in, which bail may not be taken under any law in force for the time being:

"chapter." "chapter" means a chapter of this Act.

"place." "place" includes also house, building and vessel; and

Words referring to acts done. words which refer to acts done extend also to illegal omissions.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

Establishment of Presidency Magistrates' Courts.

7. The Local Government may, with the sanction of the Governor General in Council,

(*a*) constitute within the towns of Calcutta, Madras, and Bombay respectively so many divisions as the said Government thinks fit,

(*b*) define the extent thereof respectively,

(*c*) from time to time alter the number of such divisions and their respective extents, and

(*d*) establish a Presidency Magistrate's Court for each of such divisions.

Appointment of Presidency Magistrates.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns respectively, and may suspend or remove any person so appointed.

Any such person may sit and act as a Magistrate in any of the said Courts.

Such persons shall be called Presidency Magistrates.

Every such person shall, by virtue of his office,

Presidency Magistrates to be Justices of the Peace. be a Justice of the Peace for the town of which he is a Magistrate,

and shall exercise jurisdiction in all places within

Local limits of jurisdiction. the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Bombay Court of Petty Sessions.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law in force immediately before the passing of this Act may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Appointment and powers of Chief Magistrate.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate. Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules consistent with this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Notwithstanding anything in the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

References in Acts to Magistrates of Police.

10. All references in any Act now in force to Magistrates of Police shall be deemed to be made to Presidency Magistrates.

Sentences which Presidency Magistrates may pass.

11. Any Presidency Magistrate may pass the following sentences:—

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law):

Fine not exceeding one thousand rupees:

Whipping.

A Presidency Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this section shall exceed the punishment provided for the offence by the Indian Penal Code or the special or local law by which such offence is created.

Imprisonment in default of payment of fine.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by Magistrate.

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

Sentence in cases of simultaneous conviction of several offences.

13. When a person is convicted, at one trial, of two or more offences punishable under the same section, or different sections, of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

Offences under enactments not specifying Court authorized to try.

14. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

Offence committed in Magistrate's presence.

15. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and when the offender is arrested may commit him to custody, or, if the offence is bailable, may admit him to bail.

Power to record statements and confessions.

16. A Presidency Magistrate may record any statement made to him at any place within the local limits of his jurisdiction by any person, or any confession made to him at any such place by any person accused of an offence.

Such statements and confessions shall be recorded in the manner prescribed in section 115 for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

Every confession shall be taken down as nearly as may be in the words used by the person making it, and shall be read over to him before it is recorded.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) A. B.,
Presidency Magistrate.

Power to compel restoration of abducted females.

17. Upon complaint made to a Presidency Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge or government of such child, and may compel compliance with such order, using force if necessary.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

Place for inquiry and trial of offence.

18. Every offence shall ordinarily be inquired into, and, if triable by a Magistrate, shall be tried in the district in which it was committed. If triable by a High Court, it shall (subject to the provisions of section 64 A of the Code of Criminal Procedure) be tried by the High Court to which the Magistrate commits.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

Accused triable in district where act done, or where consequence ensues.

19. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a.*) A is wounded in district X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in district X, and is, during twenty days, unable to follow his ordinary pursuits in district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in district Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in X or Y.

Place for trial where act is offence by reason of relation to other offence.

20. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it was committed, or in the district in which the other act was committed.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in the district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of their original concerted plan and with reference to their common object.

Place for inquiry or trial where scene of offence is uncertain;

21. When it is uncertain in which of several districts an offence was committed; or

or offence not committed in one district only;

where an offence is committed partly in one district and partly in another; or

or offence is continuing;

where an offence is a continuing one and continues to be committed in more districts than one; or

or consists of several acts in different districts:

where an offence consists of several acts done in different districts,

it may be inquired into and tried in any of such districts.

or offence is committed on journey or voyage.

An offence committed on a journey or voyage may be inquired into and tried in any district through or into which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Being a thug or dacoit. Escaping from custody.

22. The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody may be inquired into and tried wherever the accused person happens to be when the complaint is made.

Criminal misappropriation and criminal breach of trust.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

Murder as a thug, dacoity or dacoity with murder.

The offence of murder as a thug, dacoity or dacoity with murder, may be inquired into and tried wherever the person accused happens to be when arrested, or in any other district in which he might be tried under any other provision of this Act, or any other law relating to the trial of such offence.

Stealing cattle.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen or in any other district through or into which it was conveyed.

High Court to decide in case of doubt district where inquiry shall take place.

23. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

24. No sentence or order of any criminal Court shall be liable to be set aside merely on the ground that the inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person in his defence, or the prosecutor in his prosecution, was actually prejudiced by such error, in either of which cases a new trial may be ordered.

CHAPTER IV.—OF COMPLAINTS TO A PRESIDENCY MAGISTRATE.

When Presidency Magistrate may take cognizance of offences.

25. A Presidency Magistrate may take cognizance of any offence—

(*a*) upon a complaint by a private person,

(*b*) upon information or report by a Police-officer,

(*c*) upon information received under section 245.

Who may make complaints.

26. Any person acquainted with the facts of a case may make a complaint.

Every such information or report shall be regarded as a complaint.

Process to compel appearance.

27. On receipt of a complaint a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance.

Jurisdiction given by complaint.

28. A complaint gives jurisdiction to a Presidency Magistrate to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial, and also to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint, of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

Magistrate to examine complainant.

30. Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

Effect of omission.

Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Postponement of issue of process.

31. If the Magistrate sees cause to distrust the truth of the complaint, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made, either by means of any officer subordinate to such Magistrate, or of a local Police-officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

Dismissal of complaint.

32. The Magistrate before whom the complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

Issue of process.

33. If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

When summons may issue.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear to answer the complaint, at a certain time and place, before such Magistrate as may then be there.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

Where warrant or summons may issue on complaint.

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed—

(*a*) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

(*b*) any offence triable exclusively by the High Court, or which, in the opinion of such Magistrate, ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

Warrant to arrest, if summons not obeyed.

36. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what he deems a reasonable time before the time therein appointed for appearing pursuant thereto,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

37. Whenever the Magistrate issues a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney or pleader.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such complaint, or unless it be made by the Advocate General.

Prosecution of Judges and public servants.

39. A complaint of an offence of which any Judge, or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction, or under the direction,

(*a*) of the Government, or

(*b*) of some officer empowered in this behalf by the Government, or

(*c*) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

Power of Government as to prosecution.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

Definition of 'Government,' 'Judge,' and 'public servant.'

In this section, the expression 'Government' means either the Local Government or the Governor General in Council, and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

Prosecution for contempts of the lawful authority of public servants.

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180 or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned or of his official superior.

Sanction to prosecution for certain offences against public justice.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

42. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be received against a party to such proceedings, by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

43. The sanction referred to in sections 40, 41 and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the court or other place in which, and the occasion on which, the offence is alleged to have been committed.

Nature of sanction necessary.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

44. When any civil, criminal, or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41 or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

Procedure in cases mentioned in section 40, 41 or 42.

The Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence in the case.

45. A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

Prosecution for enticing away married woman.

46. The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

47. Every summons issued by a Presidency Magistrate to an accused person shall be in writing signed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

Form of summons.

48. If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Summons how served.

Every person to whom a summons is delivered or tendered under this section, shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

49. If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service when accused cannot be found.

When the person summoned is in the service of Government or of any Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

Service on servants of Government and Railway Companies.

50. When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

Service of summons outside Presidency Towns.

51. When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved

Proof of service in such cases and when server not present.

(*a*) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(*b*) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(*c*) by a receipt under section 48.

52. The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

53. A Presidency Magistrate may, notwithstanding the issue of a summons under this Chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him.

Issue of warrant in addition to summons.

54. A Presidency Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall either send such person the the Magistrate within to local limits of whose jurisdiction the offence is alleged to have been committed, or if the offence is bailable, take bail for his appearance before such Magistrate.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency Magistrate shall be in writing under his hand, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form of warrant.

Every warrant issued under this Act remains in force until it is cancelled by the Magistrate who issued it, or until it is executed.

Force of warrant of arrest.

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Fees for summonses and warrants.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Power to remit fees.

58. A Presidency Magistrate, in issuing a warrant for the arrest of any person, may in his discretion direct by endorsement on the warrant that, if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

When Magistrate may direct bail to be taken.

The endorsement shall state *(a)* the number of sureties, *(b)* the amount in which they and the accused person are to be respectively bound, and *(c)* the day on which he is to appear before the Magistrate.

If bail be taken, the said officer shall forward the recognizance to the Presidency Magistrate.

Recognizance to be forwarded.

59. A warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police-officer be immediately available, direct it to any other person.

Warrants to whom directed.

60. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

61. A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Execution of warrant by Police-officer other than the one addressed.

62. Any Presidency Magistrate who issues a warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

Any such Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he may issue a warrant.

Arrest in presence of Magistrate.

63. A warrant issued by a Presidency Magistrate shall ordinarily be executed within the local limits of his jurisdiction.

Where warrant may be executed.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Execution of warrant outside issuing Magistrate's jurisdiction.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for indorsement either by post or by any Police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall indorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a Police-officer, to whom it is directed, he may take it either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, *the person arrested* shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Procedure on execution of warrant outside issuer's jurisdiction.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or Police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

Magistrate and Police-officer.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days from the date of publishing the proclamation.

Proclamation for person absconding.

Proclamation how published.

Such proclamation shall be published as follows—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(*b*) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of such Magistrate's Court-house.

Evidence of publication.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the District in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, (*a*) by seizure under the order of the Magistrate having jurisdiction; or (*b*) by the appointment of a manager and receiver; or (*c*) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68 appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

Custody of person arrested.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that cases in which the Magistrate has power to inflict fine only, or imprisonment for a term not exceeding six months, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

When bail shall be taken.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail shall not be taken.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Warrant for intermediate custody.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and if required, shall appear when called upon at the High Court, to answer the charge.

Recognizance of accused and sureties.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him, and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

Discharge on bail.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

Admission to bail after failure in first instance.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the accused person may be ordered by a Presidency Magistrate to find sufficient bail, and on failing so to do may be committed to prison.

Power to order sufficient bail when that first taken is insufficient.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

Discharge of sureties.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

In what cases powers given by sections 77 and 78 may be exercised.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

Remission of part of penalty.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

Deposit instead of bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

Procedure in preliminary inquiries.

81. Cases, triable by a High Court in the exercise of its ordinary original criminal jurisdiction, or which, in the opinion of the Presidency Magistrate before whom the accused person is brought, ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

Examination of complainant and witnesses for prosecution.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney or pleader, the Magistrate shall at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Such evidence shall be recorded in the manner described in clauses 2, 3 and 4 of section 115.

Examination to be in presence of accused.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney, or pleader (if any).

Procedure in inquiries preliminary to commitment.

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Accused may examine, cross-examine and re-examine.

The accused person or his advocate, attorney or pleader shall be permitted to examine his own witnesses, to cross-examine the complainant and his witnesses, and to re-examine his own witnesses, in accordance with the Indian Evidence Act, 1872.

Examination of accused how recorded.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Power of Magistrate to summon and examine any person.

85. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

Adjournment of inquiry and remand.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit and remand the accused person for a reasonable time not exceeding fifteen days.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

When accused person to be discharged.

87. When a Presidency Magistrate finds that there are not sufficient grounds for committing the accused person for trial before the High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be tried before himself, in which case he shall proceed accordingly.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

When accused to be committed for trial.

88. When evidence has been given before a Presidency Magistrate, which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such Court, the accused person shall be committed for trial accordingly.

Framing of charge on which accused is to be tried before High Court.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Courts' Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

All such charges shall be drawn up in accordance with the provisions of Chapter IX.

Form of commitment.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect; and the charge, the record of the

Charge, &c., to be forwarded to High Court.

enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Commitment when to be notified.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by

the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

Charge to be explained, and copy furnished, to accused.

90. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy thereof shall be furnished to him, if he so require.

List of witnesses for defence on trial before High Court.

91. The accused person shall be required at once to give in, orally or in writing, a list of the persons whom he wishes to be summoned to give evidence on his trial before the High Court.

The Magistrate may, if he thinks proper, summon all or any such persons to attend and give evidence at the enquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

Further list.

The Magistrate may in his discretion allow the accused person to give in any further list of witnesses at a subsequent time.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Summons to witnesses when accused person is to be committed.

92. When the person accused is to be committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Recognizances of complainants and witnesses.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (H) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute recognizance.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

Charge to state offence.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Specific name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Previous conviction when to be set out.

If the accused person has been previously convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

Particulars as to time, place and person.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When manner of committing offence must be stated.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

97. The charge may be in the form given in the third schedule to this Act or to the like effect.

Forms in schedule.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Effect of errors.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Prisoner may apply for amendment.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Magistrate may alter charge.

Every such alteration shall be read and explained to the accused person.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When trial may proceed immediately after alteration.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial, to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When new trial may be directed or trial suspended.

Adjournment.

103. In all cases of alteration of a charge the complainant and accused person shall be allowed to recall and examine with reference to such alteration any witness who may have been examined.

Recall of witnesses when charge altered.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

Joinder of Charges.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

106. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

More offences than one of same kind may be charged within a year of each other.

107. I.—If in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

I.—Trial of more than one offence.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

II.—One offence falling within two definitions.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d.*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g.*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (*a*) to (*h*) respectively may be tried at the same time.

To paragraph II.

(*i.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(*j.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcase in order to take it dishonestly out of B's possession without B's consent. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(*k.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(*l.*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

To paragraph III.

(*m.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(*n.*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(*o.*) A entices B, the wife of C, away from C with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

108. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor or other officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Withdrawal of remaining charges on conviction on one of several charges.

Previous Acquittals or Convictions.

113. A person who has once been tried for an offence and convicted or acquitted of such offence, shall while such conviction or acquittal remains in force not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

Person once convicted or acquitted not to be tried for same offence.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts, which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph three of this section.

(*f.*) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same acts.

(*g.*) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same fact.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,

(*b*) the date of the commission of the offence,

(*c*) the name of the complainant,

(*d*) the name of the accused person,

(*e*) the offence complained of or proved,

(*f*) the prisoner's plea,

(*g*) the final order,

(*h*) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months, unless he has recorded the evidence of the witnesses.

Record of evidence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

Where the Magistrate records such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of a narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

116. In cases in which the Magistrate has power to impose fine only, or imprisonment for a term not exceeding six months, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, and which, from the facts proved, he appears to have committed.

Charge when dispensed with.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

Charge when necessary.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

118. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless he thinks fit to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Dismissal or adjournment on non-appearance of complainant.

119. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

120. If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

121. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *primâ facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

122. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

123. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If on such day the complainant does not appear, the Magistrate may dismiss the complaint.

124. Whenever any person causes a police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to person groundlessly given in charge or complained against.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine.

125. If a complainant, at any time before a final order is passed in any case in which the Presidency Magistrate may impose fine only or imprisonment for a term not exceeding six

Withdrawal of complaint.

months, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

Acquittal.

126. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Sentence.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding fifty rupees, or both, he shall add to the final order mentioned in section 114, clause (*g*), a brief statement of the reasons for the conviction.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.

127. If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

Trial of persons previously convicted of offences against coinage, stamp law or property.

128. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

General Provisions as to Inquiries and Trials.

Permission to conduct prosecution.

129. A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate General, Standing Counsel and Government Solicitor shall be entitled to do so without such permission.

Any person conducting the case may do so personally or by an advocate, attorney, or pleader.

Right of accused to be defended.

130. Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

Procedure where accused does not understand proceedings.

131. If an accused person, though not insane, cannot be made to understand the proceedings, the Magistrate may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Presidency Magistrates' Courts to be open.

132. The place in which the court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

Compounding offences.

133. In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

Power to summon material witness or examine person present.

134. Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

135. If a Presidency Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Arrest of person disobeying summons.

136. If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

Procedure when warrant cannot be served.

137. If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property

belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

Attachment, &c., of property ordered to be attached under section 137.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Power to order prisoner in jail to be brought up for examination.

139. Notwithstanding any thing contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person in any case pending before him, any person confined in any jail within the local limits of his jurisdiction may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Power to require complainants, &c., to execute recognizances.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Committal of person refusing to answer.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate 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 meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

B.—Of Witnesses.

In cases tried upon summons.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

(*a*) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused;

(*b*) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

In cases tried upon warrant.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

The Magistrate shall also summon any witness, and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

C.—Of Securing Documentary Evidence.

Summons to produce document required as evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry, trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Issue of search-warrant in first instance.

145. Where there is reason to believe that the person to whom the summons is addressed will not produce the document or other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Procedure as to letters and telegrams in custody of Postal Department or telegraph officer.

146. If any letter in the custody of the Postal Department, or any telegram in the custody of any telegraph officer as defined in Act No. I of 1876, is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities or such telegraph officer (as the case may be) to deliver such letter or telegram to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

The letter or telegram referred to in any direction given under this section shall be delivered accordingly.

Power to impound document produced.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

D.—Of the Examination of Accused Persons.

Examination of accused.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him,

only in such inquiry or trial, but also in any other inquiry into or trial for any other offence which such answer may tend to show he has committed.

149. Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

150. A Presidency Magistrate may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Tender of pardon to accomplice.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

151. When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the condition under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered or for any other offence of which he may appear to have been guilty in connection with the same matter.

Commitment of person to whom pardon has been tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

E.—Special Rules of Evidence.

152. The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

Deposition of medical witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness.

153. Any document purporting to be a report from the chemical examiner, or assistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

Report of chemical examiner.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Genuineness of signature may be presumed.

The Presidency Magistrate may, if he thinks fit, summon and examine such chemical examiner or assistant chemical examiner as to the subject-matter of his said report.

Power to summon chemical examiner.

154. A previous conviction or acquittal may be proved (*a*) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (*b*) in case of a conviction, by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted.

Previous conviction or acquittal how proved.

155. If an accused person abscond, and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

Record of evidence in absence of accused.

156. Whenever any Presidency Magistrate, after having heard the whole or any part of the evidence in an enquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial.

Convictions on evidence partly recorded by one Magistrate and partly by another.

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and reheard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

157. Whenever in the course of a trial under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

When attendance of witness may be dispensed with.

158. Such Magistrate may direct a commission to any Magistrate of the District or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

Issue of commission and procedure thereunder.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take the evidence of such witness in the same manner, and may for this purpose exercise the same powers as in trials of warrant cases under the Code of Criminal Procedure.

If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, other than the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

Commission in case of witness being within Presidency town.

The complainant and the accused person may respectively forward interrogatories in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

Complainant and accused may examine witness.

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

Return of commission.

F.—Of Search-warrants.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

Search-warrant when grantable.

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorise a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

Search of house suspected to contain stolen property or forged documents.

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, and by force if necessary, such place, and

(*b*) to search the same as specified in the warrant, and

(*c*) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

161. The provisions of sections 59 to 62, both inclusive, shall apply to all search-warrants issued under this chapter.

Direction, &c., of search-warrants.

162. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

163. A Police-officer or other person, authorized by a warrant to search any place, may break open any outer or inner door or window of such place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Place to be searched may be broken open.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

Search of zanána.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with

this section for preventing the clandestine removal of the thing mentioned in the warrant.

Search to be made in presence of witnesses.

165. Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

Occupant of place searched may attend.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Mode of searching women.

166. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

CHAPTER XII.—OF APPEALS.

Appeal by person convicted.

167. Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees:

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 18 on the same occasion shall for the purposes of this section be considered as one sentence.

For the purposes of the Indian Limitation Act 1871, all appeals under this section and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

Appeal by Government from order of acquittal.

168. The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal, or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

Copy of order to accompany petition.

169. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copies of proceedings.

170. If any person affected by an order passed under this Act desires to have a copy of such order or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

Procedure when appellant in jail.

171. If the appellant be in jail, he shall be at liberty to present his petition of appeal and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

Procedure on receiving petition of appeal.

172. On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

Power to reject appeal summarily.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Power to call for record.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

Sentence not to be enhanced when appeal rejected under this section.

In rejecting under this section an appeal by a person convicted the High Court shall not enhance the sentence.

Notice of day for hearing appeal.

173. If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the public prosecutor, Government solicitor, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard,

and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

Service of notice.

All such notices shall be served in manner provided by this Act for serving a summons.

High Court may alter or reverse finding and sentence, or enhance sentence.

174. The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government solicitor or other officer empowered by Government in this behalf, if he appears, may—

(*a*) alter or reverse the order of such Court, or

(*b*) enhance any punishment that has been awarded, but not so as to inflict a greater punishment than is prescribed by law for the offence, or

(*c*) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or

(*d*) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

Suspension of sentence pending appeal. Release of appellant on bail.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

High Court may make or direct further inquiry.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader, shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

Order when reversible by reason of error or defect in charge or proceedings.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

Irregularity before trial properly held.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

Procedure in case of conviction by Magistrate not having jurisdiction.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation in case of a groundless complaint.

(*b.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*c.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*d.*) There is no appeal against an order of maintenance.

Notice to Public Prosecutor of intention to apply under Act X of 1875, s. 147.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

CHAPTER XIII.—OF EXECUTION.

Court to send accused with warrant for execution of sentence to officer in charge of jail.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

Form and direction of warrant of commitment.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (F) given in the third schedule to this Act or to the like effect.

Levy of fine.

185. Whenever a fine is imposed under this Act, the Presidency Magistrate may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Section to what cases applicable.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

Detention of offender until return made to distress-warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

Distress not illegal, nor distrainer a trespasser for defect of form in proceedings.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

Who may issue distress-warrant.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

Payment of fine in compensation.

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Mode of inflicting punishment of whipping.

In no case, if the cat-o'-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo such punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

190. No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Procedure if punishment cannot be inflicted under section 188.

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and, if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

Currency of sentence on escaped convicts.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.

Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall enquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officer as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

Procedure when accused is a lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

195. When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act, or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

When accused appears to have been insane.

196. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

Release of lunatic on bail.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

Custody when bail not given.

197. Whenever proceedings are stayed under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

Resumption of inquiry or trial.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

198. If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

199. Whenever any person is acquitted by a Presidency Magistrate upon the ground that, at the time at which such person is alleged to have committed an offence he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

Finding in case of acquittal on ground of being lunatic.

200. Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Procedure when lunatic committed the act alleged.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

201. When any person is confined under the provisions of section 196 or 200, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

202. If such person is confined under section 196, and such Inspector-General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

203. If such person is confined under the provisions of section 200, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 199 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

204. Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

In every such case, the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender as well as 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 Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

206. If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 205 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence, and the statement of the accused person, shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

207. When any Presidency Magistrate has sentenced an offender to punishment, or forwarded him to another 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 former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

208. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

209. Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace, in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term not exceeding one year as the Magistrate thinks fit.

Sureties for keeping the peace.

210. If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Commencement of period during which person may be bound to keep peace.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs, the judgment, the person so convicted must be produced before the Magistrate making such order.

211. Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Extension of time for which person is bound.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period not exceeding one year from the expiration of the first year.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on

which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

B.—Security for Good Behaviour.

212. Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties for his good behaviour for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

213. Whenever it is proved before a Presidency Magistrate that any person is by repute

When Magistrate may require security for good behaviour for one year.

a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

or of a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

214. Whenever it is proved before a Presidency Magistrate that any person is

Procedure where security required for more than one year.

an habitual robber, house-breaker or thief,

or an habitual receiver of stolen property, knowing the same to have been stolen,

or of a dangerous character

and that his release without security, at the expiration of the limited period of one year, would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

C.—Provisions as to both kinds of Security.

215. Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213 and 214, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

EXPLANATION I.—A summons calling on a person to show cause why he should not execute such recognizance, may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may, if he thinks fit, recall any summons issued under this section.

216. Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace or to be one of the persons referred to in sections 212, 213 and 214, is present in Court no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

217. If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant) that there is reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

218. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney or pleader.

Magistrate may dispense with personal attendance of person informed against.

219. If on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace, or to be of good behaviour the Magistrate shall direct his discharge.

Discharge of person informed against.

220. If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

Order to give bond and consequence of non-compliance.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

221. If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence

which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

Contents of order for security.

222. Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force, shall be stated in the order, and the recognizance shall be in the form (H) or (I) as the case may be, given in the third schedule hereto annexed or to the like effect.

Form of recognizance.

Imprisonment in default of security.

223. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

Binding of sentenced person.

224. If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

Release of prisoners under requisition of security.

225. A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order, or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

Release of prisoner under requisition of security by order of High Court.

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Discharge of sureties.

226. A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

Commission, &c., of offence a breach.

227. The commission, or attempt to commit, or the abetment, of any offence whatever, and wherever it may be committed, is a breach of the recognizance.

Recovery of penalty from principal.

228. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof and call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits, when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

Recovery of penalty from surety.

229. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

Proof of previous conviction.

230. Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 153.

Where proceedings under this chapter may be taken.

231. Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

Provisions of chapter not applying to European vagrants.

232. The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

Power to restore possession of immoveable property.

233. Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

Order for maintenance of wives and children.

234. If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife, or child, or both, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

Enforcement of order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Proviso.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

Alteration in allowance.

235. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Enforcement of order.

236. A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

Procedure in miscellaneous criminal cases and proceedings.

237. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

238. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

Extent of jurisdiction.

239. The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

Reference to High Court.

240. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to jail or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

241. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

Direction as to costs.

The High Court may direct by whom the costs of the reference shall be paid.

Order for disposal of property regarding which offence committed.

242. When the inquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Power to order disposal of property connected with charge, in Police-custody.

243. If any property alleged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty,

or if any property has been seized by a Police-officer under chapter XI,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him, so that the suit be instituted within six months next after such order has been made.

Expenses of complainants and witnesses.

244. Subject to any rules that may be made by the Local Government, with the previous sanction of the Governor General in Council, a Presidency Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

All persons to give information of certain offences.

245. Every person aware of the commission within the local limits of the jurisdiction of a Presidency Magistrate of any offence made punishable under sections 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Presidency Magistrate.

All persons to assist Magistrate and Police in certain cases.

246. Within such local limits every person is bound to assist a Presidency Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest.

SCHEDULE I.

ACTS REPEALED.

(SEE SECTION 2.)

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and" Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one-hundred to one-hundred-and-four (both inclusive), one-hundred-and-six, one-hundred-and-eight to one-hundred-and-eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate,

4th.—The last part of the schedule, headed "Offences against other laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May rrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	Ditto ..	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ..	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.

126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Ditto ...	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly ...	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
147	Rioting	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting armed with a deadly weapon ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence ...	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	Or to go armed	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in, or delivered to, a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offene, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ..	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ..	Ditto ..	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto ...	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons ..	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
209	False claim in a Court of Justice ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years ...	Ditto ..	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police *may arrest* without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable.	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto ...	Summons ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence... ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death	May arrest without warrant.	Warrant ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation ...	Ditto ...	Ditto ...	Not bailable.	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.

229	Personation of a juror or assessor ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of Police.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp ...	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp ...	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
275	Offering for sale, or issuing from a dispensary, any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
276	Knowingly selling, or issuing from a dispensary, any drug or medical preparation as a different drug or medical preparation.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health ...	Shall not arrest without warrant.	Ditto ..	Ditto ...	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
286	So dealing with any explosive substance ...	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
294	Obscene songs	Ditto ..	Ditto ..	Ditto ...	Ditto	Ditto.

294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ..	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant ...	Not bailable	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant ...	Not bailable	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto ...	Ditto ...	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine.	High Court.
306	Abetting the commission of suicide ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above...	Ditto.
308	Attempt to commit culpable homicide ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, on both.	Ditto.
	If such act cause hurt to any person ..	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year and fine.	Magistrate.
311	Being a thug	Ditto ...	Ditto ...	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child ...	Ditto ...	Ditto ..	Ditto ..	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto ...	Ditto ..	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
	Of Hurt.					
323	Voluntarily causing hurt	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ..	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ...	Ditto	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto .	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ..	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restaint and wrongful Confinement.

341	Wrongfully restraining any person ...	May arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person ...	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave...	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant ...	Not bailable	Transportation of life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant ...	Not bailable	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court.
396	Murder in dacoity	Ditto ...	Ditto ...	Ditto ...	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
399	Making preparation to commit dacoity ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ..	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
453	Lurking house-trespass or house-breaking ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery	Shall not arrest without warrant.	Warrant ...	Bailable ..	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto ...	Di to ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery ...	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Not bailable	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the document is a valuable security or will	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*concluded.*

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
489	Removing, destroying, or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Utterring any word or making any gesture intended to insult the modesty of a woman.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ..	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto ..	Ditto ..	Ditto ...	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ..	Bailable ...	.....	Magistrate.
	If punishable with fine only	Ditto ..	Ditto ...	Ditto ..	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 47).

To *A. B.*, of

Whereas complaint has this day been made before the undersigned Presidency Magistrate for the Town of that you on the day of 187 at (*state shortly the offence complained of*) contrary to section of the Indian Penal Code [*or* of Act No. of 18 , *as the case may be*] : You are hereby required to appear in person [*or* by advocate, attorney or pleader, *as the case may be*] on the day of 187 , at o'clock in the forenoon [*or* afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint and to be further dealt with according to law.

Dated the day of

(*Signed*) C. D.
Presidency Magistrate.

B.

FORM OF WARRANT OF ARREST (*section* 56).

To (*name and designation of the person who is to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(*Signature.*)

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 71).

To the officer in charge of the

Whereas of is accused of ( ) you are hereby required to receive the said into your custody and to produce him before by whom [*or* which] the offence of which he is accused is to be tried [*or* enquired into] from time to time when so required.

D.

FORM OF RECOGNIZANCE (*section* 72).

We A. B. of , C. D. of and E. F. of do hereby bind ourselves jointly and severally that the said A. B. will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when called upon at the High Court of Judicature at to answer the charge of , and in case of the said A. B. making default herein, we the said A. B., C. D. and E. F. bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated the dayof 187 .

E.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH COURT (*section* 89.)

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)
(*Office and powers.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*section* 93).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be,* to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF WARRANT OF COMMITMENT AFTER SENTENCE (*section* 183).

To , the officer in charge of the Jail.

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*) and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*): You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE (*section* 222).

Whereas I, A. B., [*or* we A. B., C. D., etc.], of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself [*or* each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my [*or* any of us] making default therein, I bind myself [*or* he binds himself] to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.

I E. F. of hereby declare myself surety for the above-mentioned A. B., that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

I.

FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR (*section* 222).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 97).

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

(*b.*) That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court. — On Penal Code section 121.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature of the Magistrate.*]

[*To be substituted for* (*b*)].

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court. — On section 124.

(3.) That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court. — On section 161.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court. — On section 304.

(5.) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court. — On section 306.

(6.) That you, on or about the day of , at voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court. — On section 325.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court. — On section 392.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court. — On section 395.

(9.) That you, on or about the day of , at , did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court. — On section 166.

(10.) That you, on or about the day of at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable — On section 193.

under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[*In cases tried by Magistrates, substitute* "within my cognizance" *for* "within the cognizance of the High Court." *In* (*c*, *omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*.) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*], as follows:—

On Penal Code, sections 241 and 242.

(*b*.) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c*.) And I hereby commit you to the said Court to be tried on the said charge.

[*Signature of the Magistrate.*]

On sections 302 and 304.

For (*b*) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

For (*b*) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before , stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the High Court;" *and omit* "by the said Court."

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in four months.

No. 6 of 1876.

A Bill to amend the Indian Registration Act, 1871.

Preamble.

For the purpose of amending the Indian Registration Act, 1871; It is hereby enacted as follows:—

Amendment of Act VIII of 1871, section 7.

1. For section seven the following shall be substituted:—

Offices of Registrar and Sub-Registrar

"7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office or offices to be styled the Office of the Sub-Registrar or the Offices of the Joint Sub-Registrars,

and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar,

and may authorize any Sub-Registrar whose Office has been so amalgamated to exercise and perform all or any of the powers and duties of a Registrar other than the powers conferred by sections sixty-eight and seventy-two."

Addition of clause (*d*) to section 17.

2. In section seventeen, after clause (*c*), the following clause shall be inserted (namely):—

"or (*d*) to any document merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any right, title or interest of the value of one hundred rupees and upwards, to or in immoveable property."

Amendment of section 18, clause (7).

3. In section eighteen, to clause (7) the words "All such" shall be prefixed, and for the last seven words of the same clause the following words shall be substituted (namely): "and other documents as are not required by section seventeen to be registered".

Addition to section 30, clause (*b*).

4. In section thirty, clause (*b*), after the word "Town," the words "and the Registrar of the Lahore District" shall be inserted.

Amendment of section 31.

5. For section thirty-one the following shall be substituted (namely):—

Presentation and deposit of documents at private residences.

"31. In ordinary cases the presentation or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

But such officer may on special cause being shewn attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will."

Addition to section 34.

6. To section thirty-four, paragraph first, the following words shall be added (namely): "under sections twenty-three, twenty-four, twenty-five and twenty-six;" and in clause two of the same section, after the word "fee," the following words shall be inserted (namely): "in addition to the fine (if any) payable under section twenty-four."

Amendment of sections 42 to 45.

7. For sections forty-two, forty-three, forty-four and forty-five, the following shall be substituted (namely):—

Deposit of wills in sealed covers.

"42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any), and with a statement of the nature of the document.

Procedure on depositing wills.

"43. On receiving such cover the Registrar, if satisfied, that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-Book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

The Registrar shall then place and retain the cover in his fireproof box.

Withdrawal of covers containing wills.

"44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit; and such Registrar, if he be satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Procedure on testator's death.

"45. If on the death of a testator who has deposited a sealed cover under section forty-two, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall in the applicant's presence open the cover, and at the applicant's expense cause the contents thereof to be copied into his Book No. 3."

Amendment of section 46.

8. In section forty-six, for the second sentence, the following shall be substituted (namely): "But whenever any such order is made, the Registrar shall, unless the will has already been copied under section forty-five, open the cover and copy the will in his Book No 3, and shall make a note in such Book that the original has been removed into Court in pursuance of the order aforesaid."

Addition to section 50.

9. To section fifty the following words shall be prefixed (namely): "Every document mentioned in clauses (1), (2), (3) and (4) of section seventeen, and."

Amendment of section 59.

10. In section fifty-nine, for the words "the last preceding section," the words "sections fifty-two and fifty-eight" shall be substituted.

Addition to sections 64 and 65.

11. In section sixty-four and in the first paragraph of section sixty-five, after the word "document," the words "not testamentary" shall be inserted.

Amendment of section 71, clause 2.

12. In section seventy-one, for clause two, the following shall be substituted (namely):—

"except on the ground—

(*a*) that the property to which it relates is not situate within his District or Sub-District; or

(*b*) that he is a Registrar and that the document ought to be registered in the Office of a Sub-Registrar."

Addition to section 73.

13. To section seventy-three the following explanation shall be added (namely):—

"EXPLANATION.—In this section 'District Court' means the principal civil Court of original jurisdiction within the local limits of which is situate the Office in which the order of refusal was made."

'Section' defined.

14. In this Act 'section' means section of the said Indian Registration Act, 1871.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make in the Registration Act thirteen amendments which the experience of the past five years has shown to be desirable.

Of these, the first is intended to authorize the Local Governments to establish in each Sub-District more Sub-Registrars than one, who will exercise concurrent jurisdiction. The absence of such a power has been found inconvenient in the Lower Provinces, and, probably, elsewhere. Power is also expressly given to authorize any Sub-Registrar whose Office has been amalga-

mated with that of a Registrar to exercise all the powers of a Registrar other than those conferred by sections 68 and 72. Some doubt had arisen whether or no such a power was implied.

The second embodies in section seventeen of the Act the resolution of the Government of India in the Home Department No. 51-1906, dated 10th July 1874. Its effect is to expressly exempt from compulsory registration documents merely creating a right to obtain other documents, which will, when executed, create, &c., rights of the value of Rs. 100 and upwards to immoveable property.

The third is intended to make it clear that section 18, clause (7), is not to encroach upon the provisions of section 17.

The fourth places the Registrar of the Lahore District on the same footing, as regards documents relating to land situate in any part of British India, as the Registrars of Districts including the Presidency Towns. This change has been made on the recommendation of the Local Government.

The fifth simply amends the drafting of section 31 of the Act.

The sixth expresses distinctly two of the intentions of the legislature in framing section 34 of the Act, *viz.*, that the time allowed for presentation is the time allowed under the first four sections of Part IV, *i. e.*, not merely the time (four months) ordinarily allowed, but also any extension of that period allowed under sections 24, 25, 26, and that, not only the fine mentioned in section 34, but the fines, if any, payable under section 24, must be paid in case of delay in appearing before the Registrar.

The seventh amends the drafting of sections 42 and 43, and expressly confines, in accordance with the intention of the framers of Act VIII of 1871, sections 44 and 45 to cases in which the testator himself, as distinguished from a depositing agent, desires to withdraw the deposit, or has died.

The eighth exempts the Registrar from the duty of copying a will under section 46 when it has already been copied under section 45; and when he has to copy a will, expressly empowers him to open the sealed cover in which it is preserved.

The ninth is an amendment of section 50, and is intended to supply a defect which has already given rise to fraudulent practices. That section now provides that registered documents relating to land, of which the registration is optional, shall take effect against unregistered documents. But it makes no such provision as to documents of which the registration is compulsory and which have accordingly been registered. Deeds coming under section 18 of the Act, whether registered or not, take effect against deeds registered under section 17, according to date of execution. The result is that, although a registered deed creating a right of the value of Rs. 99 to land cannot be defeated by an unregistered deed, a registered deed creating a similar right worth Rs. 101 may be defeated by an antedated unregistered deed creating a right worth anything under Rs. 100. The mischief feared is an extensive fabrication of falsely dated deeds purporting to create rights of small value in order to defeat deeds creating rights of large value. The remedy which the Bill proposes is to make documents registered under section 17 take effect against unregistered documents.

The tenth amendment is in section 59. That section now provides only for dating and signing endorsements made under section 58. It is desirable to make a similar provision for endorsements made under section 52.

The eleventh amendment consists in expressly excluding wills and codicils from sections 64 and 65.

The twelfth amendment effects a slight, but desirable, amendment in the drafting of section 71.

The thirteenth and last amendment clears up a doubt which has been raised as to the meaning in section 72 of the expression "District Court."

SIMLA;
The 5th June 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Seclet Committee with instructions to make their report thereon in six weeks.

No. 7 of 1876.

THE SINDH INCUMBERED ESTATES BILL, 1876.

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A Bill to relieve from Incumbrances the estates of Jágírdárs and Zamíndárs in Sindh.

Preamble. Whereas many Jágírdárs and Zamíndárs in Sindh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Sindh Incumbered Estates Act, 1876":

Commencement. And it shall come into force on the passing thereof.

Interpretation-clause. 2. In this Act—

"Jágír-land." 'Jágír-land' includes also a share held hereditarily of the revenues of a Government village, but does not include *siri* or *mámul* or garden-grants:

"Jágírdár." "Jágírdár" means a person who was in possession of jágír-land in Sindh on the seventeenth day of February 1843, and has since been in possession of the same land or of a portion thereof, or of other jágír-land assigned by the British Government in lieu thereof, and who holds a sanad granted under the authority of the said Government confirming his title.

For the purposes of this definition, the possession of any person from whom jágír-land has descended by way of inheritance shall be deemed to be the possession of the person to whom such land has so descended:

"Zamíndár." "Zamíndár" means a person holding lands in Sindh on the aggregate of which he has paid, direct to the Government, on account of land-revenue for any one of the five revenue years next before the passing of this Act, a sum not less than three hundred rupees:

"Commissioner." "Commissioner" means the Commissioner in Sindh.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for the benefit of this Act. 3. At any time within twelve months after the passing of this Act, any jágírdár or zamíndár,

or any person who would be sole heir or one of the heirs to such jágírdár or zamíndár if he then died intestate,

may apply, in writing, to the Commissioner, stating that such jágírdár or zamíndár is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities, other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any jágírdár, zamíndár or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person or by the legally constituted administrator or manager of his estate.

Order to enquire. 4. When any such application is made by or on behalf of a jágírdár, or the person who would be his sole heir if he then died, the Commissioner shall direct an enquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Gover[illegible]

Bombay in Council in this behalf, either to reject such application or to direct an enquiry to be made as aforesaid.

5. When an enquiry has been directed under section four, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such enquiry a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

Verified statement to be submitted.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

False averments in statement.

6. The officer so appointed, after making such enquiry as he thinks necessary, shall submit a report of his proceedings to the Commissioner.

Report of enquiry and proceedings thereon.

On receipt of such report, the Commissioner may (*a*) direct a further enquiry, or (*b*) dismiss the application, or (*c*), by order published in the *Sindh Official Gazette*, appoint an officer (hereinafter called the Manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

III.—OF THE ORDER OF MANAGEMENT.

7. Such order (hereinafter called "the order of management") shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date.

"Order of management" to what it extends.

The management shall be deemed to commence from the date on which the order is published.

Commencement of management.

8. On the publication of the order of management the following consequences shall ensue:

Effect of order of management.

First, all proceedings then pending in any Civil Court in British India in respect to the debts and liabilities mentioned in section seven shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended;

Stay of pending proceedings, &c.

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court in British India in respect of such debts and liabilities;

Bar of fresh proceedings.

Thirdly, so long as the management continues the debtor shall be incompetent

The debtor incompetent

to contract debts,

(*a*) to enter into any contract involving him in pecuniary liability, or

to encumber or alienate property under management,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

to grant receipts for rent thereof.

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom:

Provided that nothing contained in this clause shall be deemed to preclude the Manager from letting and the debtor from taking the whole or any part of such property on such terms consistent with this Act, as may be agreed upon between the parties;

Fourthly, so long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

9. The Manager shall, during the management, receive and recover all rents and profits due in respect of the property under management,

Manager to receive rents and profits,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a jágírdár or zamíndár, as the case may be, all the powers possessed by a Collector, under the law for the time being in force, for the recovery of land-revenue due to Government.

to have powers of a Collector for their recovery.

In the event of any dispute arising as to the liability of any person to pay any such rent or profit, or as to the amount thereof, the decision of the Manager shall be binding until set aside by a competent Court.

10. From the sums received or recovered under section nine, the Manager shall pay

Manager to pay therefrom—

First, the Government revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management,

Government revenue, &c.,

Secondly, the rent (if any) due to the jágírdár or other superior holder, in respect of the said property;

rent due to superior holder,

Thirdly, such periodical allowance as the Commissioner may from time to time fix for the maintenance of the debtor and his family,

allowance for maintenance of debtor,

Fourthly, the cost of such repairs and improvements of the said property as he thinks necessary, and

cost of repairs, &c.,

Fifthly, the costs of the management.

cost of management.

The residue shall be retained by the Manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section seven other than those so due or incurred to Government.

Residue how disposed of.

11. At any time after the management has commenced the Manager may demise all or any part of the property under management for any term of years not exceeding three years to take effect in possession, so as there be reserved the best yearly rent that can be reasonably gotten without taking anything in the nature of a fine.

Power to make short leases.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the Manager shall publish in the *Sindh Official Gazette* a notice in English and Sindhi, calling upon all persons having claims against the debtor, or the property under management, to notify the same in writing to such Manager within six months from the date of the publication.

Notice to claimants against debtor.

He shall also cause copies of such notice to be exhibited at the Mukhtiárkárs' kachahrís in the district in which the said property lies, and at such other places as he thinks fit.

Copies of notice to be exhibited.

13. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

14. Every such claim (other than claims of the Government) not notified to the Manager within the time and in the manner required by such notice shall, except as provided in section twenty-one, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Claim not duly notified to be barred.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of section twelve, the Manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Provision for admission of claims within further period of six months.

15. The Manager shall inquire into the history and merits of every claim received under sections twelve and fourteen, and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities (if any) due to the several claimants.

Determination of debts and liabilities.

16. No claim shall be allowed which was barred by the law of limitation when the order of management was published.

Time-barred claims not to be allowed.

17. If on any inquiry under section fifteen it appears that, having regard to the principal amount of the debt or liability as originally incurred, and to all the circumstances of the case, the amount from time to time debited to the debtor on account of interest, though debited in accordance with the agreement between the parties, is unconscionably large, the Manager may re-open the account as far back as he deems fit, and allow for interest to the date of his decision only such amount as to him may seem fair and reasonable.

Power to reduce interest.

18. An appeal against any decision or order under section fourteen, fifteen, sixteen, or seventeen shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

Appeal.

There shall be no appeal against the decision of the Commissioner on such appeal.

19. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Scheme for liquidation.

Every such scheme shall further provide (*a*) for the continuance of the payments to be made by the Manager under section ten, (*b*) for the order in which such debts and liabilities shall be paid and discharged, and (*c*) for the rate of interest (if any) on the aggregate amount finally awarded under this Part in respect of each claim from the date of the final decision on such claim to the date of the payment and discharge thereof.

Provisions of scheme.

Any such scheme may further provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

May provide for improving the property.

20. The Commissioner may—

Proceedings of Commissioner on submission of scheme.

(*a*) as often as he thinks fit send back such scheme to the Manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him either as it stands, or subject to such modifications as he may deem expedient.

21. At any time before he has sanctioned a liquidation-scheme under section twenty, the Commissioner may by an order published in the *Sindh Official Gazette*, direct that on a date fixed by such order the management shall be relinquished.

Power to relinquish management.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession and enjoyment thereof, subject to any leases made under section eleven;

(*c*) any residue of the rents and profits of the said property retained under the last clause of section ten shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section eight, and the debts and liabilities barred by section fourteen, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

22. On the sanction of the liquidation-scheme by the Commissioner—

Effects of sanctioning scheme.

1*st*, all proceedings, processes, executions and attachments stayed or suspended under section eight shall be for ever barred, and

2*nd*, every debt or liability due or owing to any person which was proveable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Part IV of this Act in respect of such debt or liability.

23. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the Manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

Power to remove mortgagee in possession.

If such incumbrancer refuse or neglect to obey such order, the Manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation-scheme the amount (if any) awarded to him under Part IV of this Act.

24. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the Manager, with the sanction of the Commissioner, may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appear to him insufficient, may by order, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the Manager thinks fit, and in default of such payment the lease shall be cancelled.

Power to inquire into consideration given for lease.

25. Subject to ther ules made under section thirty-one, the Manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions as may be agreed upon.

Power to lease.

26. At any time after the liquidation-scheme has been sanctioned as aforesaid, the Manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme,

Power to raise money by mortgage or sale.

(*a*) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(*b*) by selling, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the said property as may appear expedient:

Provided that no property shall be sold under this section without the previous consent of the owner thereof, and of the person or persons being of full age who would be his heir or heirs if he then died intestate.

27. The Manager's receipt for any moneys, rents or profits raised or received by him under this Act, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipt to be a discharge.

28. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the Manager shall publish in the *Sindh Official Gazette* a notice fixing a date for the termination of the management.

Termination of management.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the Manager under the power conferred by section twenty-six, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers conferred by sections eleven, twenty-five and twenty-six.

29. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes hereinbefore provided,

Death of debtor during management.

1*st*, the management shall continue and proceed in all respects as if such debtor were still living;

2*ndly*, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (*b*) and (*c*) of section eight; and

3*rdly*, no Civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management for or in respect of any debt or liability incurred by any such person whether before or after his succession.

30. When a jágírdár or zamíndár has been restored under section twenty-eight to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such jágírdár or zamíndár, shall be valid as to any time beyond his natural life.

Mortgages, &c., made by restored jágírdár valid only for his life.

VI.—MISCELLANEOUS.

31. The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act—

Power to make rules.

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Part IV of this Act; and in particular as to the allowance of interest, and the order of paying debts and liabilities;

(*d*) to provide for the exercise by any officer conducting an enquiry under this Act of any power exercised by a Civil Court in the trial of suits;

(*e*) for investing any moneys received or raised by the Manager under this Act in any Government securities of British India, and for the sale of such securities, and

(*f*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Sindh Official Gazette*, and when so published shall have the force of law.

32. Whenever the Commissioner thinks fit, he may suspend or remove any Manager and may appoint any officer in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Power to appoint new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

33. Every Manager appointed under this Act, shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers to be public servants.

34. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

35. No suit or other proceeding shall be maintained against any person in respect of any thing done by him *bonâ fide* pursuant to this Act.

Bar of suits.

36. Nothing in this Act precludes the Courts in Sindh having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

Saving of jurisdiction of Courts in Sindh in respect of certain suits.

STATEMENT OBJECTS AND REASONS.

The object of this Bill, which has been prepared at the desire of the Local Government, is to provide for the relief of certain Jágírdárs and Zamíndárs in Sindh, whose estates are heavily encumbered. The Bill closely resembles the measures which have been passed of late years for the relief of the Taluqdárs of Oudh, the Thákurs of Broach, and the landholders of Chutiá Nágpur, and the reasons for introducing it are substantially the same as the reasons which led to those enactments.

As the Bill purports to bar certain suits throughout British India, the Bombay legislature is incompetent to pass it.

SIMLA, *The 22nd June* 1876. } T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month.

No. 8 of 1876.

A Bill to amend the law relating to the transfer of Bombay Municipal Debentures.

Whereas under the Bombay Municipal Act of 1865, the Justices of the Peace for the City of Bombay were empowered to mortgage for the purposes therein mentioned the rates and taxes imposed and levied under that Act:

Preamble.

And whereas by section 255 of the same Act it was enacted that any person entitled to any such mortgage might transfer his right and interest therein to any other person, and that every such transfer should be by deed duly stamped, wherein the consideration should be truly stated, and that every such transfer might be according to the form in Schedule K to the said Act annexed or to the like effect:

And whereas in exercise of the said power divers mortgages of the said rates and taxes have been made, and the mortgagees have purported to transfer their mortgages to other persons, but such transfers have been by simple endorsement and not by deed duly stamped:

And whereas it is expedient to provide that such transfers may hereafter be made by endorsement, and to confirm the said transfers heretofore made;

and to exempt the parties thereto from the penalties which they have incurred by reason of their failure to comply with the provisions of the said section and of the law relating to stamp-duties for the time being in force;

It is hereby enacted as follows:—

Transfers of Bombay Municipal debentures to be by endorsement and free from stamp-duty.

1. Every mortgage of rates and taxes, authorized to be made under the said Bombay Municipal Act of 1865, shall be transferable by endorsement on the instrument of mortgage, and no such endorsement shall be chargeable with any stamp-duty.

Validation of former transfers by endorsement.

2. Every transfer of any such mortgage heretofore made by endorsement shall be, and be deemed to have been, as valid as if this Act had been in force at the date of such transfer; and no stamp-duty shall be, or be deemed to have been, chargeable in respect of any such transfer; and no penalty shall be deemed to have been incurred by reason of any failure to comply with the provisions of the said section 255 or of the law relating to stamp-duties for the time being in force.

STATEMENT OF OBJECTS AND REASONS.

Under the power conferred by the Bombay Municipal Act (Bombay Act No. II of 1865), numerous mortgages (generally called Municipal Debentures) were made of the rates and taxes imposed and levied under that Act. The mortgagees in many, if not in all, instances have purported to transfer their interests to other persons. In so doing, however, the directions contained in section 255 of that Act, that every such transfer should be "by deed duly stamped, wherein the consideration shall be truly stated," have been unintentionally disregarded, and the transfers have been made by simple unstamped endorsement.

The objects of this Bill, which has been prepared at the request of the Local Government, are, first, to assimilate in Bombay the law as to the transfer of Municipal debentures to that which prevails in the other Presidency Towns under Bengal Act IV of 1876, section 335, and Madras Act IX of 1867, section 98, and, secondly, to validate the transfers which have already been made of the Bombay Municipal debentures, and to relieve the parties thereto from the penalties which they have incurred from their neglect of the requirements of the Stamp Act.

SIMLA;
16th June 1876. } T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month.

No. 9 of 1876.

A Bill to amend the Stage Carriages Act.

Preamble.

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages; It is hereby enacted as follows:—

Amendment of Act XVI of 1861, s. 21.

1. For the third sentence of section 21 of the said Act, the following shall be substituted (that is to say):

"The term 'horse' shall include ponies, mules, camels, and oxen."

Local extent of Act XVI of 1861.

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

STATEMENT OF OBJECTS AND REASONS.

The Government of the North-Western Provinces has recently called the attention of the Government of India to the necessity of bringing conveyances drawn by camels within the scope of the Stage Carriages Act of 1861. The primary object of the present Bill is to make this amendment; and the opportunity has been taken to render the Act applicable also to carriages drawn by oxen, and to declare it to be in force throughout British India.

SIMLA;
The 22nd June 1876. } E. C. BAYLEY.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 8, 1876.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd June 1876:—

We, the undersigned Members of the Select Committee to which the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Note by the Hon'ble A. G. Macpherson, dated 28th February 1876.
Proposed re-arrangement of the Bill by the Secretary, Legislative Department.
From Government of Bombay, No. 1279, dated 24th February 1876.
" Honorary Secretary, British Indian Association, dated 8th March 1876.
" Honorary Secretary to the Calcutta Attornies' Association, dated 4th March 1876.
Opinion by W. E. E. Forsyth, Esq., dated 25th February 1876.
Remarks by the Senior Magistrate, Madras, dated 7th March 1876.
From Government of Bengal, No. 938 J., dated 13th March 1876, and enclosures.
Summary of demi-official remarks by the Senior Magistrates of Madras and Bombay.
From Superintendent and Remembrancer of Legal Affairs, No. 1773, dated 29th March 1876.
From Government of Madras, No. 719, dated 13th April 1876, and enclosures.
From Government of Bombay, No. 3996, dated 12th July 1875.
From Government of Madras, No. 1673, dated 19th July 1875, and enclosures.
Petition from Bombay Association, dated 18th May 1876.
Memorial of the British Indian Association, dated 2nd June 1876.
From Home Department, No. 872 J., dated 1st June 1876, and enclosures.
Note by Hon'ble T. C. Hope, dated 6th June 1876.
From Home Department, No. 971 J., dated 12th June 1876, and enclosures.
" do. do., No. 981 J., dated 14th June 1876, forwarding letter from Government of Bengal, No. 3234, dated 17th November 1875.
From Home Department, No. 979 J., dated 14th June 1876, forwarding letter from Government of Bombay, No. 2990, dated 30th September 1875, and enclosures.

2. We have provided (section 1) that the Bill shall come into force, not at once, but on such day as the Governor General in Council directs by notification.

3. We have defined the word 'place,' and have struck out as unnecessary the definitions of 'special and local law,' 'inquiry,' 'inquired into,' 'cognizable and non-cognizable offence,' 'Magistrate,' 'High Court.'

4. For the same reason we have omitted the clause relating to the salaries of Presidency Magistrates.

5. We have also omitted the provision that such Magistrates shall exercise the powers which under any law may be exercised by two Justices of the Peace.

6. We have struck out the clause declaring that *all* existing Magistrates of Police (honorary as well as stipendiary) shall be deemed Presidency Magistrates under the proposed Act. The Local Governments will therefore have to make timely arrangements for re-appointing

such of those Magistrates as they may deem fit to exercise the enhanced powers which Presidency Magistrates will possess.

7. We have provided (section 11) that no punishment inflicted by a Presidency Magistrate shall exceed the punishment provided for the offence by the Penal Code or other law creating it. Under the Bill, as it recently stood, a Magistrate might give two years' imprisonment for criminal trespass.

8. We have struck out as unsuited to the Presidency towns the provisions authorizing the issue of process upon mere suspicion entertained by a Magistrate.

9. We do not think it expedient that any previous conviction should be allowed to be proved in order to enhance punishment: we have therefore (section 94) confined for this purpose previous convictions to those of offences against property, of offences relating to coin and stamps, and of the other offences enumerated in sections 2 and 4 of the Whipping Act.

10. We think that a Presidency Magistrate should record the evidence in all appealable cases, *i. e.*, as the Bill now stands, in all cases in which he inflicts a fine exceeding Rs. 200, or imprisonment for a term exceeding six months. We have altered section 115 accordingly. We have also amended the rules (section 16) relating to the record of confessions.

11. As the powers of Presidency Magistrates will be so much increased, we think that in all serious cases a formal charge should be compulsory. We therefore propose (section 116) to require a charge in all cases punishable with imprisonment for a term exceeding six months; and we have taken from the Code of Criminal Procedure, sections 126 and 127, provisions as to the time at which the charge shall be drawn up and as to explaining it to the accused.

12. We think that whenever the Magistrate inflicts imprisonment, or fine exceeding Rs. 50 (and not merely in cases which are appealable to the High Court), he should add to the final order a brief statement of the reasons for the conviction. We have provided for this in section 126.

13. We have empowered (section 146) a Presidency Magistrate to obtain, for the purposes of inquiries and trials, not only letters, but telegrams. But we have provided that when he is not the Senior (or, as we propose to call him, the Chief) Magistrate, the direction to deliver the letter or telegram required must come from the Chief Magistrate.

14. We have enabled (section 153) the Magistrate to examine the Chemical Examiner. As the latter official usually resides near at hand, there is not the same objection as there would be to calling him in the mofussil.

15. We have provided (section 158) that commissions addressed to the Magistrate of the District may be executed by such Magistrate of the first class as he appoints.

16. In the part of the Bill (sections 159—166) which relates to search-warrants, we have added sections corresponding with sections 382 and 386 of the Criminal Procedure Code.

17. We have extended (section 167) the right of appeal against convictions. As the Bill now stands, convicted persons may appeal where the Magistrate has sentenced them to imprisonment for a term exceeding *six* months, or to fine exceeding Rs. 200. The jurisdiction of the Magistrates without appeal will thus nearly correspond to what it is at present.

18. We see no objection to the principle of giving power to Government to appeal in case of acquittal—a principle which is recognized in the Code of Criminal Procedure. But by section 168 we have diminished, from six to two months, the period within which such appeals must be presented under the proposed Act; and we have empowered the High Court, on admitting the appeal, to order the accused to be arrested and to commit him to prison or release him on bail: in this respect the Code seems defective.

19. We have altered the section (181) relating to applications under Act X of 1875, section 147. Section 181 now provides that whenever such an application is made, the applicant shall give notice to the Public Prosecutor, &c., and that no order shall be made on the merits unless at least twenty-four hours have elapsed between the giving of the notice and the hearing.

20. We have struck out the clause giving appeals to the High Court in cases of contempt. Such cases will stand on the same footing with other decisions of Magistrates.

21. We have taken away the power to award costs as distinguished from compensation.

22. We have also struck out the power (taken from Madras Act VIII of 1868, section 15) to order the restitution of property forming the subject of a charge on which a conviction has been obtained. The matter seems to a majority of us sufficiently provided for by section 242.

23. The Bill in many cases required that a seal be affixed to warrants, charges and decisions. We see no practical advantage in these requirements and have therefore struck them out.

24. We have provided (section 232) that the sections relating to security for good behaviour shall not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act.

25. We have found it expedient to re-arrange the Bill. As last published, it closely followed the order of the present Code of Criminal Procedure, which order may for our purpose be usefully altered.

We have therefore divided the Bill into four Parts and nineteen Chapters, arranged as follows:—

Part I contains the usual preliminary matter, and a chapter dealing with the constitution and powers of the Presidency Magistrates Courts.

Part II treats of an ordinary case from its inception to execution. It deals successively with the following subjects: the place of enquiry: complaints: prosecutions in certain cases: summons: warrant: bail: enquiry into cases triable by the High Court: the charge: trial of cases: evidence: appeals: execution.

Part III relates to special proceedings and treats of the following subjects: criminal lunatics: contempts: security for keeping the peace: security for good behaviour: restoring possession of immoveable property: maintenance of wives and children.

Part IV contains some miscellaneous matters. It treats, for instance, of offences against the Railway, Telegraph, Post Office and Arms Acts. It provides for references of questions of law to the High Court: for the disposal of property respecting which an offence has been committed: for the payment of the expenses of complainants and witnesses: for giving information of certain offences; and for assisting the Magistrates and the Police to prevent a breach of the peace, to suppress a riot, and to take a person whose arrest is authorized.

26. We have found it expedient to make a number of amendments in the wording of the sections taken from the Code of Criminal Procedure.

27. We have been urged to extend to the Presidency Towns Chapter XXXIX (as to Local Nuisances) of the Code of Criminal Proceedure. But we think that the matter is more properly provided for by the local Municipal Acts.

28. We think that the Bill has been so altered that it should be republished, and we accordingly recommend that it be republished in the *Gazette of India*, in the *Calcutta Gazette*, the *Fort St. George Gazette* and the *Bombay Government Gazette*, and that its further consideration be stayed until the Council re-assembles in Calcutta.

T. C. HOPE.
A. HOBHOUSE.
E. C. BAYLEY.
JOHN INGLIS.
F. R. COCKERELL.

The 14th June 1876.

No. V.

THE PRESIDENCY MAGISTRATES' BILL, 1876.

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A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Whereas it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns, and to increase the jurisdiction of such Courts; It is hereby enacted as follows:— Preamble.

PART I.

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The Presidency Magistrates' Act, 1876": Short title.

And it shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*. Commencement.

2. On and from that day the Acts mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule. Repeal of Acts.

3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law. Saving of powers under local laws.

4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule. Matters indicated in second schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section fourteen,

whether a warrant or a summons shall ordinarily issue in the first instance, and

whether the offence is bailable or not,

are indicated respectively by the third, fourth and fifth columns of the same schedule.

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Pending cases.

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

Definitions.

"writing" includes print, lithography, photography and engraving:

"writing."

"bailable offence" means an offence for, and "bailable case" means a case in, which bail may be taken under any law in force for the time being:

"bailable offence or case."

"non-bailable offence" means an offence for, and "non-bailable case" means a case in, which bail may not be taken under any law in force for the time being:

"non-bailable offence or case."

"chapter" means a chapter of this Act.

"chapter."

"place" includes also house, building and vessel; and

"place."

words which refer to acts done extend also to illegal omissions.

Words referring to acts done.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

7. The Local Government may, with the sanction of the Governor General in Council,

Establishment of Presidency Magistrates' Courts.

(*a*) constitute within the towns of Calcutta, Madras, and Bombay respectively so many divisions as the said Government thinks fit,

(*b*) define the extent thereof respectively,

(*c*) from time to time alter the number of such divisions and their respective extents, and

(*d*) establish a Presidency Magistrate's Court for each of such divisions.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns respectively, and may suspend or remove any person so appointed.

Appointment of Presidency Magistrates.

Any such person may sit and act as a Magistrate in any of the said Courts.

Such persons shall be called Presidency Magistrates.

Every such person shall, by virtue of his office, be a Justice of the Peace for the town of which he is a Magistrate,

Presidency Magistrates to be Justices of the Peace.

and shall exercise jurisdiction in all places within the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Local limits of jurisdiction.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law in force immediately before the passing of this Act may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Bombay Court of Petty Sessions.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate. Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules consistent with this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Appointment and powers of Chief Magistrate.

Notwithstanding anything in the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

10. All references in any Act now in force to Magistrates of Police shall be deemed to be made to Presidency Magistrates.

References in Acts to Magistrates of Police.

11. Any Presidency Magistrate may pass the following sentences:—

Sentences which Presidency Magistrates may pass.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law):

Fine not exceeding one thousand rupees:

Whipping.

A Presidency Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this section shall exceed the punishment provided for the offence by the Indian Penal Code or the special or local law by which such offence is created.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine:

Imprisonment in default of payment of fine.

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to cases decided by Magistrate.

Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

13. When a person is convicted, at one trial, of two or more offences punishable under the same section, or different sections, of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Sentence in cases of simultaneous conviction of several offences.

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

14. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

Offences under enactments not specifying Court authorized to try.

15. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and when the offender is arrested may commit him to custody, or, if the offence is bailable, may admit him to bail.

Offence committed in Magistrate's presence.

16. A Presidency Magistrate may record any statement made to him at any place within the local limits of his jurisdiction by any person, or any confession made to him at any such place by any person accused of an offence.

Power to record statements and confessions.

Such statements and confessions shall be recorded in the manner prescribed in section 115 for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

Every confession shall be taken down as nearly as may be in the words used by the person making it, and shall be read over to him before it is recorded.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) A. B.,
Presidency Magistrate.

17. Upon complaint made to a Presidency Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge or government of such child, and may compel compliance with such order, using force if necessary.

Power to compel restoration of abducted females.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

18. Every offence shall ordinarily be inquired into, and, if triable by a Magistrate, shall be tried in the district in which it was committed. If triable by a High Court, it shall (subject to the provisions of section 64 A of the Code of Criminal Procedure) be tried by the High Court to which the Magistrate commits.

Place for inquiry and trial of offence.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

19. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or any such consequence has ensued.

Accused triable in district where act done, or where consequence ensues.

Illustrations.

(*a.*) A is wounded in district X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in district X, and is, during twenty days, unable to follow his ordinary pursuits in district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in district Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in X or Y.

20. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it was committed, or in the district in which the other act was committed.

Place for trial where act is offence by reason of relation to other offence.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in the district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of their original concerted plan and with reference to their common object.

Place for inquiry or trial where scene of offence is uncertain;

or offence not committed in one district only;

or offence is continuing;

or consists of several acts in different districts:

21. When it is uncertain in which of several districts an offence was committed; or

where an offence is committed partly in one district and partly in another; or

where an offence is a continuing one and continues to be committed in more districts than one; or

where an offence consists of several acts done in different districts,

it may be inquired into and tried in any of such districts.

or offence is committed on journey or voyage.

An offence committed on a journey or voyage may be inquired into and tried in any district through or into which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Being a thug or dacoit. Escaping from custody.

22. The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody may be inquired into and tried wherever the accused person happens to be when the complaint is made.

Criminal misappropriation and criminal breach of trust.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

Murder as a thug, dacoity or dacoity with murder.

The offence of murder as a thug, dacoity or dacoity with murder, may be inquired into and tried wherever the person accused happens to be when arrested, or in any other district in which he might be tried under any other provision of this Act, or any other law relating to the trial of such offence.

Stealing cattle.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen or in any other district through or into which it was conveyed.

High Court to decide in case of doubt district where inquiry shall take place.

23. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

24. No sentence or order of any criminal Court shall be liable to be set aside merely on the ground that the inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person in his defence, or the prosecutor in his prosecution, was actually prejudiced by such error, in either of which cases a new trial may be ordered.

CHAPTER IV.—OF COMPLAINTS TO A PRESIDENCY MAGISTRATE.

When Presidency Magistrate may take cognizance of offences.

25. A Presidency Magistrate may take cognizance of any offence—

(*a*) upon a complaint by a private person,

(*b*) upon information or report by a Police-officer,

(*c*) upon information received under section 245.

Who may make complaints.

26. Any person acquainted with the facts of a case may make a complaint.

Every such information or report shall be regarded as a complaint.

Process to compel appearance.

27. On receipt of a complaint a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance.

Jurisdiction given by complaint.

28. A complaint gives jurisdiction to a Presidency Magistrate to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial, and also to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint, of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

Magistrate to examine complainant.

30. Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

Effect of omission.

Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Postponement of issue of process.

31. If the Magistrate sees cause to distrust the truth of the complaint, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made, either by means of any officer subordinate to such Magistrate, or of a local Police-officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

Dismissal of complaint.

32. The Magistrate before whom the complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

Issue of process.

33. If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

When summons may issue.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear to answer the complaint, at a certain time and place, before such Magistrate as may then be there.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

Where warrant or summons may issue on complaint.

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed—

(*a*) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

(*b*) any offence triable exclusively by the High Court, or which, in the opinion of such Magistrate, ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

Warrant to arrest, if summons not obeyed.

36. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what he deems a reasonable time before the time therein appointed for appearing pursuant thereto,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

37. Whenever the Magistrate issues a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney or pleader.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such complaint, or unless it be made by the Advocate General.

Prosecution of Judges and public servants.

39. A complaint of an offence of which any Judge, or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction, or under the direction,

(*a*) of the Government, or

(*b*) of some officer empowered in this behalf by the Government, or

(*c*) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

Power of Government as to prosecution.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

Definition of 'Government,' 'Judge,' and 'public servant.'

In this section, the expression 'Government' means either the Local Government or the Governor General in Council, and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

Prosecution for contempts of the lawful authority of public servants.

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180 or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned or of his official superior.

Sanction to prosecution for certain offences against public justice.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

42. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be received against a party to such proceedings, by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

43. The sanction referred to in sections 40, 41 and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the court or other place in which, and the occasion on which, the offence is alleged to have been committed.

Nature of sanction necessary.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

44. When any civil, criminal, or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41 or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

Procedure in cases mentioned in section 40, 41 or 42.

The Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence in the case.

45. A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

Prosecution for enticing away married woman.

46. The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

47. Every summons issued by a Presidency Magistrate to an accused person shall be in writing signed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

Form of summons.

48. If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Summons how served.

Every person to whom a summons is delivered or tendered under this section, shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

49. If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service when accused cannot be found.

When the person summoned is in the service of Government or of any Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

Service on servants of Government and Railway Companies.

50. When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

Service of summons outside Presidency Towns.

51. When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved

Proof of service in such cases and when server not present.

(*a*) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(*b*) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(*c*) by a receipt under section 48.

52. The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

53. A Presidency Magistrate may, notwithstanding the issue of a summons under this Chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him,

Issue of warrant in addition to summons.

54. A Presidency Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall either send such person the the Magistrate within to local limits of whose jurisdiction the offence is alleged to have been committed, or if the offence is bailable, take bail for his appearance before such Magistrate.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency Magistrate shall be in writing under his hand, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form of warrant.

Every warrant issued under this Act remains in force until it is cancelled by the Magistrate who issued it, or until it is executed.

Force of warrant of arrest.

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Fees for summonses and warrants.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Power to remit fees.

58. A Presidency Magistrate, in issuing a warrant for the arrest of any person, may in his discretion direct by endorsement on the warrant that, if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

When Magistrate may direct bail to be taken.

The endorsement shall state (*a*) the number of sureties, (*b*) the amount in which they and the accused person are to be respectively bound, and (*c*) the day on which he is to appear before the Magistrate.

If bail be taken, the said officer shall forward the recognizance to the Presidency Magistrate.

Recognizance to be forwarded.

59. A warrant shall ordinarily be directed to a Police-officer; but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police-officer be immediately available, direct it to any other person.

Warrants to whom directed.

60. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

61. A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Execution of warrant by Police-officer other than the one addressed.

62. Any Presidency Magistrate who issues a warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

Any such Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he may issue a warrant.

Arrest in presence of Magistrate.

63. A warrant issued by a Presidency Magistrate shall ordinarily be executed within the local limits of his jurisdiction.

Where warrant may be executed.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Execution of warrant outside issuing Magistrate's jurisdiction.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for indorsement either by post or by any Police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall indorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a Police-officer, to whom it is directed, he may take it either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Procedure on execution of warrant outside issuer's jurisdiction.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or Police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

Magistrate and Police-officer.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days from the date of publishing the proclamation.

Proclamation for person absconding.

Proclamation how published.

Such proclamation shall be published as follows—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(*b*) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

Evidence of publication.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the District in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, (*a*) by seizure under the order of the Magistrate having jurisdiction; or (*b*) by the appointment of a manager and receiver; or (*c*) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68 appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

Custody of person arrested.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that cases in which the Magistrate has power to inflict fine only, or imprisonment for a term not exceeding six months, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

When bail shall be taken.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail shall not be taken.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Warrant for intermediate custody.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and if required, shall appear when called upon at the High Court, to answer the charge.

Recognizance of accused and sureties.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him, and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

Discharge on bail.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

Admission to bail after failure in first instance.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the accused person may be ordered by a Presidency Magistrate to find sufficient bail, and on failing so to do may be committed to prison.

Power to order sufficient bail when that first taken is insufficient.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

Discharge of sureties.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

In what cases powers given by sections 77 and 78 may be exercised.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

Remission of part of penalty.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

Deposit instead of bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

Procedure in preliminary inquiries.

81. Cases, triable by a High Court in the exercise of its ordinary original criminal jurisdiction, or which, in the opinion of the Presidency Magistrate before whom the accused person is brought, ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

Examination of complainant and witnesses for prosecution.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney or pleader, the Magistrate shall at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Such evidence shall be recorded in the manner described in clauses 2, 3 and 4 of section 115.

Examination to be in presence of accused.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney, or pleader (if any).

Procedure in inquiries preliminary to commitment.

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Accused may examine, cross-examine and re-examine.

The accused person or his advocate, attorney or pleader shall be permitted to examine his own witnesses, to cross-examine the complainant and his witnesses, and to re-examine his own witnesses, in accordance with the Indian Evidence Act, 1872.

Examination of accused how recorded.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presenee and in his hearing, and contains accurately the whole of the statement made by the accused person.

Power of Magistrate to summon and examine any person.

85. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

Adjournment of inquiry and remand.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit and remand the accused person for a reasonable time not exceeding fifteen days.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

When accused person to be discharged.

87. When a Presidency Magistrate finds that there are not sufficient grounds for committing the accused person for trial before the High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be tried before himself, in which case he shall proceed accordingly.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

When accused to be committed for trial.

88. When evidence has been given before a Presidency Magistrate, which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such Court, the accused person shall be committed for trial accordingly.

Framing of charge on which accused is to be tried before High Court.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Courts' Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

All such charges shall be drawn up in accordance with the provisions of Chapter IX.

Form of commitment.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect; and the charge, the record of the

Charge, &c., to be forwarded to High Court.

enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Commitment when to be notified.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by

the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

Charge to be explained, and copy furnished, to accused.

90. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy thereof shall be furnished to him, if he so require.

List of witnesses for defence on trial before High Court.

91. The accused person shall be required at once to give in, orally or in writing, a list of the persons whom he wishes to be summoned to give evidence on his trial before the High Court.

The Magistrate may, if he thinks proper, summon all or any such persons to attend and give evidence at the enquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

Further list.

The Magistrate may in his discretion allow the accused person to give in any further list of witnesses at a subsequent time.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Summons to witnesses when accused person is to be committed.

92. When the person accused is to be committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Recognizances of complainants and witnesses.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (H) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute recognisance.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

Charge to state offence.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Specific name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Previous conviction when to be set out.

If the accused person has been previously convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

Particulars as to time, place and person.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When manner of committing offence must be stated.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

97. The charge may be in the form given in the third schedule to this Act or to the like effect.

Forms in schedule.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Effect of errors.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Prisoner may apply for amendment.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Magistrate may alter charge.

Every such alteration shall be read and explained to the accused person.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When trial may proceed immediately after alteration.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial, to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When new trial may be directed or trial suspended.

Adjournment.

103. In all cases of alteration of a charge the complainant and accused person shall be allowed to recall and examine with reference to such alteration any witness who may have been examined.

Recall of witnesses when charge altered.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

Joinder of Charges.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

106. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

More offences than one of same kind may be charged within a year of each other.

107. I.—If in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

I.—Trial of more than one offence.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

II.—One offence falling within two definitions.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b.*) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d.*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g.*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (*a*) to (*h*) respectively may be tried at the same time.

To paragraph II.

(*i.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(*j.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcase in order to take it dishonestly out of B's possession without B's consent. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(*k.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(*l.*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

To paragraph III.

(*m.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(*n.*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(*o.*) A entices B, the wife of C, away from C with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

108. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(*a.*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor or other officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Withdrawal of remaining charges on conviction on one of several charges.

Previous Acquittals or Convictions.

113. A person who has once been tried for an offence and convicted or acquitted of such offence, shall while such conviction or acquittal remains in force not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

Person once convicted or acquitted not to be tried for same offence.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts, which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph three of this section.

(*f.*) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same acts.

(*g.*) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same fact.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,

(*b*) the date of the commission of the offence,

(*c*) the name of the complainant,

(*d*) the name of the accused person,

(*e*) the offence complained of or proved,

(*f*) the prisoner's plea,

(*g*) the final order,

(*h*) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months, unless he has recorded the evidence of the witnesses.

Record of evidence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

Where the Magistrate records such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of a narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

116. In cases in which the Magistrate has power to impose fine only, or imprisonment for a term not exceeding six months, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, and which, from the facts proved, he appears to have committed.

Charge when dispensed with.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

Charge when necessary.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

118. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless he thinks fit to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Dismissal or adjournment on non-appearance of complainant.

119. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

120. If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

121. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *primâ facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

122. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

123. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If on such day the complainant does not appear, the Magistrate may dismiss the complaint.

124. Whenever any person causes a police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to person groundlessly given in charge or complained against.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine.

125. If a complainant, at any time before a final order is passed in any case in which the Presidency Magistrate may impose fine only or imprisonment for a term not exceeding six

Withdrawal of complaint.

months, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

Acquittal.

126. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Sentence.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding fifty rupees, or both, he shall add to the final order mentioned in section 114, clause (*g*), a brief statement of the reasons for the conviction.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.

127. If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

Trial of persons previously convicted of offences against coinage, stamp law or property.

128. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

General Provisions as to Inquiries and Trials.

Permission to conduct prosecution.

129. A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate General, Standing Counsel and Government Solicitor shall be entitled to do so without such permission.

Any person conducting the case may do so personally or by an advocate, attorney, or pleader.

Right of accused to be defended.

130. Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

Procedure where accused does not understand proceedings.

131. If an accused person, though not insane, cannot be made to understand the proceedings, the Magistrate may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Presidency Magistrates' Courts to be open.

132. The place in which the court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

Compounding offences.

133. In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

Power to summon material witness or examine person present.

134. Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

135. If a Presidency Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Arrest of person disobeying summons.

136. If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

Procedure when warrant cannot be served.

137. If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

Attachment, &c., of property ordered to be attached under section 137.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Power to order prisoner in jail to be brought up for examination.

139. Notwithstanding any thing contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person in any case pending before him, any person confined in any jail within the local limits of his jurisdiction may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Power to require complainants, &c., to execute recognizances.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Committal of person refusing to answer.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate 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 meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

B.—Of Witnesses.

In cases tried upon summons.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

(*a*) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused:

(*b*) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

In cases tried upon warrant.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

The Magistrate shall also summon any witness, and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

C.—Of Securing Documentary Evidence.

Summons to produce document required as evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry, trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Issue of search-warrant in first instance.

145. Where there is reason to believe that the person to whom the summons is addressed will not produce the document or other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Procedure as to letters and telegrams in custody of Postal Department or telegraph officer.

146. If any letter in the custody of the Postal Department, or any telegram in the custody of any telegraph officer as defined in Act No. I of 1876, is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities or such telegraph officer (as the case may be) to deliver such letter or telegram to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

The letter or telegram referred to in any direction given under this section shall be delivered accordingly.

Power to impound document produced.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

D.—Of the Examination of Accused Persons.

Examination of accused.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not

only in such inquiry or trial, but also in any other inquiry into or trial for any other offence which such answer may tend to show he has committed.

No influence to be used to induce disclosures.

149. Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Tender of pardon to accomplice.

150. A Presidency Magistrate may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

Commitment of person to whom pardon has been tendered.

151. When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the condition under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

E.—Special Rules of Evidence.

Deposition of medical witness.

152. The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

Power to summon medical witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Report of chemical examiner.

153. Any document purporting to be a report from the chemical examiner, or assistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

Genuineness of signature may be presumed.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Power to summon chemical examiner.

The Presidency Magistrate may, if he thinks fit, summon and examine such chemical examiner or assistant chemical examiner as to the subject-matter of his said report.

Previous conviction or acquittal how proved.

154. A previous conviction or acquittal may be proved (*a*) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (*b*) in case of a conviction, by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted.

Record of evidence in absence of accused.

155. If an accused person abscond, and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

Convictions on evidence partly recorded by one Magistrate and partly by another.

156. Whenever any Presidency Magistrate after having heard the whole or any part of the evidence in an enquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial.

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and re-heard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

When attendance of witness may be dispensed with.

157. Whenever in the course of a trial under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

Issue of commission and procedure thereunder.

158. Such Magistrate may direct a commission to any Magistrate of the District or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take his evidence in the same manner, and may for this purpose exercise the same powers as in trials of warrant cases under the Code of Criminal Procedure.

Commission in case of witness being within Presidency town.

If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, other than the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

Complainant and accused may examine witness.

The complainant and the accused person may respectively forward interrogatories in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of commission.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

F.—Of Search-warrants.

Search-warrant when grantable.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorise a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

Search of house suspected to contain stolen property or forged documents.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, and by force if necessary, such place, and

(*b*) to search the same as specified in the warrant, and

(*c*) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

Direction, &c., of search-warrants.

161. The provisions of sections 59 to 62, both inclusive, shall apply to all search-warrants issued under this chapter.

Persons in charge of closed place to allow search.

162. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

163. A Police-officer or other person, authorized by a warrant to search any place, may break open any outer or inner door or window of such place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Search of zanána.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with

this section for preventing the clandestine removal of the thing mentioned in the warrant.

Search to be made in presence of witnesses.

165. Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

Occupant of place searched may attend.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Mode of searching women.

166. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

CHAPTER XII.—OF APPEALS.

Appeal by person convicted.

167. Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees:

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

For the purposes of the Indian Limitation Act 1871, all appeals under this section and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

Appeal by Government from order of acquittal.

168. The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal, or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

Copy of order to accompany petition.

169. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copies of proceedings.

170. If any person affected by an order passed under this Act desires to have a copy of such order or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

Procedure when appellant in jail.

171. If the appellant be in jail, he shall be at liberty to present his petition of appeal and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

Procedure on receiving petition of appeal.

172. On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

Power to reject appeal summarily.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Power to call for record.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

Sentence not to be enhanced when appeal rejected under this section.

In rejecting under this section an appeal by a person convicted the High Court shall not enhance the sentence.

Notice of day for hearing appeal.

173. If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the public prosecutor, Government solicitor, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard,

and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

Service of notice.

All such notices shall be served in manner provided by this Act for serving a summons.

High Court may alter or reverse finding and sentence, or enhance sentence.

174. The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government solicitor or other officer empowered by Government in this behalf, if he appears, may—

(*a*) alter or reverse the order of such Court, or

(*b*) enhance any punishment that has been awarded, but not so as to inflict a greater punishment than is prescribed by law for the offence, or

(*c*) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or

(*d*) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

Suspension of sentence pending appeal.
Release of appellant on bail.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

High Court may make or direct further inquiry.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader, shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

Order when reversible by reason of error or defect in charge or proceedings.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

Irregularity before trial properly held.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

Procedure in case of conviction by Magistrate not having jurisdiction.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation in case of a groundless complaint.

(*b.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*c.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*d.*) There is no appeal against an order of maintenance.

Notice to Public Prosecutor of intention to apply under Act X of 1875, s. 147.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

CHAPTER XIII.—OF EXECUTION.

Court to send accused with warrant for execution of sentence to officer in charge of jail.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

Form and direction of warrant of commitment.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (F) given in the third schedule to this Act or to the like effect.

Levy of fine.

185. Whenever a fine is imposed under this Act, the Presidency Magistrate may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Section to what cases applicable.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

Detention of offender until return made to distress-warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

Distress not illegal, nor distrainer a trespasser for defect of form in proceedings.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

Who may issue distress-warrant.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

Payment of fine in compensation.

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Mode of inflicting punishment of whipping.

In no case, if the cat-o'-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo such punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

190. No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Procedure if punishment cannot be inflicted under section 188.

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and, if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

Currency of sentence on escaped convicts.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.

Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall enquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officer as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

Procedure when accused is a lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

195. When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act, or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

When accused appears to have been insane.

196. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

Release of lunatic on bail.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

Custody when bail not given.

197. Whenever proceedings are stayed under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

Resumption of inquiry or trial.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

198. If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

199. Whenever any person is acquitted by a Presidency Magistrate upon the ground that, at the time at which such person is alleged to have committed an offence he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

Finding in case of acquittal on ground of being lunatic.

200. Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Procedure when lunatic committed the act alleged.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

201. When any person is confined under the provisions of section 196 or 200, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

202. If such person is confined under section 196, and such Inspector-General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

203. If such person is confined under the provisions of section 200, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 199 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

204. Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

In every such case, the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender as well as 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 Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

206. If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 295 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence, and the statement of the accused person, shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

207. When any Presidency Magistrate has sentenced an offender to punishment, or forwarded him to another 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 former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

208. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

209. Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace, in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term not exceeding one year as the Magistrate thinks fit.

Sureties for keeping the peace.

210. If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Commencement of period during which person may be bound to keep peace.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs, the judgment, the person so convicted must be produced before the Magistrate making such order.

211. Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Extension of time for which person is bound.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period not exceeding one year from the expiration of the first year.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on

which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

B.—Security for Good Behaviour.

212. Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties for his good behaviour for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

213. Whenever it is proved before a Presidency Magistrate that any person is by repute

When Magistrate may require security for good behaviour for one year.

a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

or of a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

214. Whenever it is proved before a Presidency Magistrate that any person is

Procedure where security required for more than one year.

an habitual robber, house-breaker or thief,

or an habitual receiver of stolen property, knowing the same to have been stolen,

or of a dangerous character

and that his release without security, at the expiration of the limited period of one year, would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

C.—Provisions as to both kinds of Security.

215. Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213 and 214, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

EXPLANATION I.—A summons calling on a person to show cause why he should not execute such recognizance, may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may, if he thinks fit, recall any summons issued under this section.

216. Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace or to be one of the persons referred to in sections 212, 213 and 214, is present in Court no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

217. If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant) that there is reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

218. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney or pleader.

Magistrate may dispense with personal attendance of person informed against.

219. If on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace, or to be of good behaviour the Magistrate shall direct his discharge.

Discharge of person informed against.

220. If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

Order to give bond and consequence of non-compliance.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

221. If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence

which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

Contents of order for security.

222. Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force, shall be stated in the order, and the recognizance shall be in the form (H) or (I) as the case may be, given in the third schedule hereto annexed or to the like effect.

Form of recognizance.

Imprisonment in default of security.

223. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

Binding of sentenced person.

224. If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

Release of prisoners under requisition of security.

225. A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order, or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

Release of prisoner under requisition of security by order of High Court.

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Discharge of sureties.

226. A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

Commission, &c., of offence a breach.

227. The commission, or attempt to commit, or the abetment, of any offence whatever, and wherever it may be committed, is a breach of the recognizance.

Recovery of penalty from principal.

228. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof and call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits, when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

Recovery of penalty from surety.

229. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

Proof of previous conviction.

230. Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 158.

Where proceedings under this chapter may be taken.

231. Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

Provisions of chapter not applying to European vagrants.

232. The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

Power to restore possession of immoveable property.

233. Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

Order for maintenance of wives and children.

234. If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife, or child, or both, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

Enforcement of order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Proviso.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

Alteration in allowance.

235. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Enforcement of order.

236. A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

PART IV

CHAPTER XIX.—MISCELLANEOUS.

Procedure in miscellaneous criminal cases and proceedings.

237. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

238. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

Extent of jurisdiction.

239. The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

Reference to High Court.

240. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to jail or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

241. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

Direction as to costs.

The High Court may direct by whom the costs of the reference shall be paid.

Order for disposal of property regarding which offence committed.

242. When the inquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

EXPLANATION.—In this section the term property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Power to order disposal of property connected with charge, in Police-custody.

243. If any property alleged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty,

or if any property has been seized by a Police-officer under chapter XI,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him, so that the suit be instituted within six months next after such order has been made.

Expenses of complainants and witnesses.

244. Subject to any rules that may be made by the Local Government, with the previous sanction of the Governor General in Council, a Presidency Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

All persons to give information of certain offences.

245. Every person aware of the commission within the local limits of the jurisdiction of a Presidency Magistrate of any offence made punishable under sections 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police-officer or Presidency Magistrate.

All persons to assist Magistrate and Police in certain cases.

246. Within such local limits every person is bound to assist a Presidency Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest.

SCHEDULE I.

ACTS REPEALED.

(SEE SECTION 2.)

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and" Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one-hundred to one-hundred-and-four (both inclusive), one-hundred-and-six, one-hundred-and-eight to one-hundred-and-eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or any shorter term; or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Ditto ...	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly ...	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
147	Rioting	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting armed with a deadly weapon ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence ...	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	Or to go armed	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in, or delivered to, a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offene, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto ...	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
209	False claim in a Court of Justice ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable.	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto ...	Summons ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence... ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death	May arrest without warrant.	Warrant ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation ...	Ditto ...	Ditto ...	Not bailable.	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.

229	Personation of a juror or assessor ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of Police.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp ...	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
275	Offering for sale, or issuing from a dispensary, any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
276	Knowingly selling, or issuing from a dispensary, any drug or medical preparation as a different drug or medical preparation.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health ...	Shall not arrest without warrant.	Ditto ..	Ditto ...	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
286	So dealing with any explosive substance ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
294	Obscene songs	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant ...	Not bailable	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant ...	Not bailable	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto ...	Ditto ...	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine.	High Court.
306	Abetting the commission of suicide ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above...	Ditto.
308	Attempt to commit culpable homicide ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, on both.	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year and fine.	Magistrate.
311	Being a thug	Ditto ...	Ditto ...	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child ...	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

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CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
			Of Hurt.			
323	Voluntarily causing hurt	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ..	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ..	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restaint and wrongful Confinement.

341	Wrongfully restraining any person ...	May arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave...	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant ...	Not bailable	Transportation of life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant ...	Not bailable	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto ...	Ditto ...	Ditto ...	Ditto	High Court.
396	Murder in dacoity	Ditto ...	Ditto ...	Ditto ...	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
399	Making preparation to commit dacoity ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto...	Transportation for life, or as above...	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ..	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust ...	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Mischief.

426	Mischief	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
453	Lurking house-trespass or house-breaking ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery	Shall not arrest without warrant.	Warrant ...	Bailable ..	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ..	Punishment for forgery ...	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Not bailable	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the document is a valuable security or will	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*concluded.*

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
489	Removing, destroying, or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.

494	Marrying again during the life-time of a husband or wife.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Utterring any word or making any gesture intended to insult the modesty of a woman.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto ...	Ditto ...	Ditto ...	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ..	Bailable ...	.....	Magistrate.
	If punishable with fine only	Ditto ..	Ditto ...	Ditto ..	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 47).

To *A. B.*, of

Whereas complaint has this day been made before the undersigned Presidency Magistrate for the Town of that you on the day of 187 at (*state shortly the offence complained of*) contrary to section of the Indian Penal Code [*or* of Act No. of 18 , *as the case may be*] : You are hereby required to appear in person [*or* by advocate, attorney or pleader, *as the case may be*] on the day of 187 , at o'clock in the forenoon [*or* afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint and to be further dealt with according to law.

Dated the day of

(*Signed*) C. D.
Presidency Magistrate.

B.

FORM OF WARRANT OF ARREST (*section* 56).

To (*name and designation of the person who is to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(*Signature.*)

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 71).

To the officer in charge of the
Whereas of is accused of ( ) you are hereby required to receive the said into your custody and to produce him before by whom [*or* which] the offence of which he is accused is to be tried [*or* enquired into] from time to time when so required.

D.

FORM OF RECOGNIZANCE (*section* 72).

We A. B. of , C. D. of and E. F. of do hereby bind ourselves jointly and severally that the said A. B. will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when called upon at the High Court of Judicature at to answer the charge of , and in case of the said A. B. making default herein, we the said A. B., C. D. and E. F. bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated the dayof 187 .

E.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH COURT (*section* 89.)

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)
(*Office and powers.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*section* 93).

I, , of , do hereby bind myself to appear at , in the Court of at o'clock on the day of next, and then and there to prosecute (*or, as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF WARRANT OF COMMITMENT AFTER SENTENCE (*section* 183).

To , the officer in charge of the Jail.

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*) and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*): You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE (*section* 222).

Whereas I, A. B., [*or* we A. B., C. D., etc.], of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself [*or* each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of my [*or* any of us] making default therein, I bind myself [*or* he binds himself] to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.

I E. F. of hereby declare myself surety for the above-mentioned A. B., that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

I.

FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR (*section* 222).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 97).

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

On Penal Code section 121.

(*b.*) That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature of the Magistrate.*]

[*To be substituted for* (*b*)].

On section 124.

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(3.) That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(5.) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(6.) That you, on or about the day of , at voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(9.) That you, on or about the day of , at , did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 193.

(10.) That you, on or about the day of at , in the course of the trial of before stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable

under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[*In cases tried by Magistrates, substitute* "within my cognizance" *for* "within the cognizance of the High Court." *In* (*c*, *omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*.) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*], as follows :—

(*b*.) *First*.—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code, sections 241 and 242.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c*.) And I hereby commit you to the said Court to be tried on the said charge.

[*Signature of the Magistrate.*]

For (*b*) *First*.—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*) *First*.—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before , stated in evidence that " ," and that you, on or about the day of , at , in the course of the trial of before " , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the High Court;" *and omit* "by the said Court."

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in four months.

No. 6 of 1876.

A Bill to amend the Indian Registration Act, 1871.

For the purpose of amending the Indian Registration Act, 1871; It is hereby enacted as follows :—

Preamble.

Amendment of Act VIII of 1871, section 7.

1. For section seven the following shall be substituted :—

"7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office or offices to be styled the Office of the Sub-Registrar or the Offices of the Joint Sub-Registrars,

Offices of Registrar and Sub-Registrar

and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar,

and may authorize any Sub-Registrar whose Office has been so amalgamated to exercise and perform all or any of the powers and duties of a Registrar other than the powers conferred by sections sixty-eight and seventy-two."

Addition of clause (*d*) to section 17.

2. In section seventeen, after clause (*c*), the following clause shall be inserted (namely) :—

"or (*d*) to any document merely creating right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any right, title or interest of the value of one hundred rupees and upwards, to or in immoveable property."

Amendment of section 18, clause (7).

3. In section eighteen, to clause (7) the words "All such" shall be prefixed, and for the last seven words of the same clause the following words shall be substituted (namely) : "and other documents as are not required by section seventeen to be registered".

Addition to section 30, clause (*b*).

4. In section thirty, clause (*b*), after the word "Town," the words "and the Registrar of the Lahore District" shall be inserted.

Amendment of section 31.

5. For section thirty-one the following shall be substituted (namely) :—

"31. In ordinary cases the presentation or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Presentation and deposit of documents at private residences.

But such officer may on special cause being shewn attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will."

Addition to section 34.

6. To section thirty-four, paragraph first, the following words shall be added (namely) : "under sections twenty-three, twenty-four, twenty-five and twenty-six;" and in clause two of the same section, after the word "fee," the following words shall be inserted (namely) : "in addition to the fine (if any) payable under section twenty-four."

Amendment of sections 42 to 45.

7. For sections forty-two, forty-three, forty-four and forty-five, the following shall be substituted (namely) :—

"42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any), and with a statement of the nature of the document.

Deposit of wills in sealed covers.

"43. On receiving such cover the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-Book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

Procedure on depositing wills.

The Registrar shall then place and retain the cover in his fireproof box.

"44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit; and such Registrar, if he be satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Withdrawal of covers containing wills.

"45. If on the death of a testator who has deposited a sealed cover under section forty-two, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall in the applicant's presence open the cover, and at the applicant's expense cause the contents thereof to be copied into his Book No. 3."

Procedure on testator's death.

8. In section forty-six, for the second sentence, the following shall be substituted (namely) : "But whenever any such order is made, the Registrar shall, unless the will has already been copied under section forty-five, open the cover and copy the will in his Book No. 3, and shall make a note in such Book that the original has been removed into Court in pursuance of the order aforesaid."

Amendment of section 46.

9. To section fifty the following words shall be prefixed (namely) : "Every document mentioned in clauses (1), (2), (3) and (4) of section seventeen, and."

Addition to section 50.

10. In section fifty-nine, for the words "the last preceding section," the words "sections fifty-two and fifty-eight" shall be substituted.

Amendment of section 59.

11. In section sixty-four and in the first paragraph of section sixty-five, after the word "document," the words "not testamentary" shall be inserted.

Addition to sections 64 and 65.

12. In section seventy-one, for clause two, the following shall be substituted (namely) :—

Amendment of section 71, clause 2.

"except on the ground—

(*a*) that the property to which it relates is not situate within his District or Sub-District; or

(*b*) that he is a Registrar and that the document ought to be registered in the Office of a Sub-Registrar."

Addition to section 73.

13. To section seventy-three the following explanation shall be added (namely) :—

"EXPLANATION.—In this section 'District Court' means the principal civil Court of original jurisdiction within the local limits of which is situate the Office in which the order of refusal was made."

'Section' defined.

14. In this Act 'section' means section of the said Indian Registration Act, 1871.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make in the Registration Act thirteen amendments which the experience of the past five years has shown to be desirable.

Of these, the first is intended to authorize the Local Governments to establish in each Sub-District more Sub-Registrars than one, who will exercise concurrent jurisdiction. The absence of such a power has been found inconvenient in the Lower Provinces, and, probably, elsewhere. Power is also expressly given to authorize any Sub-Registrar whose Office has been amalga-

mated with that of a Registrar to exercise all the powers of a Registrar other than those conferred by sections 68 and 72. Some doubt had arisen whether or no such a power was implied.

The second embodies in section seventeen of the Act the resolution of the Government of India in the Home Department No. 51-1906, dated 10th July 1874. Its effect is to expressly exempt from compulsory registration documents merely creating a right to obtain other documents, which will, when executed, create, &c., rights of the value of Rs. 100 and upwards to immoveable property.

The third is intended to make it clear that section 18, clause (7), is not to encroach upon the provisions of section 17.

The fourth places the Registrar of the Lahore District on the same footing, as regards documents relating to land situate in any part of British India, as the Registrars of Districts including the Presidency Towns. This change has been made on the recommendation of the Local Government.

The fifth simply amends the drafting of section 31 of the Act.

The sixth expresses distinctly two of the intentions of the legislature in framing section 34 of the Act, *viz.*, that the time allowed for presentation is the time allowed under the first four sections of Part IV, *i. e.*, not merely the time (four months) ordinarily allowed, but also any extension of that period allowed under sections 24, 25, 26, and that, not only the fine mentioned in section 34, but the fines, if any, payable under section 24, must be paid in case of delay in appearing before the Registrar.

The seventh amends the drafting of sections 42 and 43, and expressly confines, in accordance with the intention of the framers of Act VIII of 1871, sections 44 and 45 to cases in which the testator himself, as distinguished from a depositing agent, desires to withdraw the deposit, or has died.

The eighth exempts the Registrar from the duty of copying a will under section 46 when it has already been copied under section 45; and when he has to copy a will, expressly empowers him to open the sealed cover in which it is preserved.

The ninth is an amendment of section 50, and is intended to supply a defect which has already given rise to fraudulent practices. That section now provides that registered documents relating to land, of which the registration is optional, shall take effect against unregistered documents. But it makes no such provision as to documents of which the registration is compulsory and which have accordingly been registered. Deeds coming under section 18 of the Act, whether registered or not, take effect against deeds registered under section 17, according to date of execution. The result is that, although a registered deed creating a right of the value of Rs. 99 to land cannot be defeated by an unregistered deed, a registered deed creating a similar right worth Rs. 101 may be defeated by an antedated unregistered deed creating a right worth anything under Rs. 100. The mischief feared is an extensive fabrication of falsely dated deeds purporting to create rights of small value in order to defeat deeds creating rights of large value. The remedy which the Bill proposes is to make documents registered under section 17 take effect against unregistered documents.

The tenth amendment is in section 59. That section now provides only for dating and signing endorsements made under section 58. It is desirable to make a similar provision for endorsements made under section 52.

The eleventh amendment consists in expressly excluding wills and codicils from sections 64 and 65.

The twelfth amendment effects a slight, but desirable, amendment in the drafting of section 71.

The thirteenth and last amendment clears up a doubt which has been raised as to the meaning in section 72 of the expression "District Court."

SIMLA;
The 5th June 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Seclet Committee with instructions to make their report thereon in six weeks.

No. 7 of 1876.

THE SINDH INCUMBERED ESTATES BILL, 1876.

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A Bill to relieve from Incumbrances the estates of Jágírdárs and Zamíndárs in Sindh.

Whereas many Jágírdárs and Zamíndárs in Sindh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:— Preamble.

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Sindh Incumbered Estates Act, 1876":

Commencement. And it shall come into force on the passing thereof.

Interpretation-clause. 2. In this Act—

"Jágír-land." 'Jágír-land' includes also a share held hereditarily of the revenues of a Government village, but does not include *siri* or *mámul* or garden-grants:

"Jágírdár." "Jágírdár" means a person who was in possession of jágír-land in Sindh on the seventeenth day of February 1843, and has since been in possession of the same land or of a portion thereof, or of other jágír-land assigned by the British Government in lieu thereof, and who holds a sanad granted under the authority of the said Government confirming his title.

For the purposes of this definition, the possession of any person from whom jágír-land has descended by way of inheritance shall be deemed to be the possession of the person to whom such land has so descended:

"Zamíndár." "Zamíndár" means a person holding lands in Sindh on the aggregate of which he has paid, direct to the Government, on account of land-revenue for any one of the five revenue years next before the passing of this Act, a sum not less than three hundred rupees:

"Commissioner." "Commissioner" means the Commissioner in Sindh.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for the benefit of this Act. 3. At any time within twelve months after the passing of this Act any jágírdár or zamíndár,

or any person who would be sole heir or one of the heirs to such jágírdár or zamíndár if he then died intestate,

may apply, in writing, to the Commissioner, stating that such jágírdár or zamíndár is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities, other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any jágírdár, zamíndár or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person or by the legally constituted administrator or manager of his estate.

Order to enquire. 4. When any such application is made by or on behalf of a jágírdár, or the person who would be his sole heir if he then died, the Commissioner shall direct an enquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of

Bombay in Council in this behalf, either to reject such application or to direct an enquiry to be made as aforesaid.

5. When an enquiry has been directed under section four, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such enquiry a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to thedebts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

Verified statement to be submitted.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

False averments in statement.

6. The officer so appointed, after making such enquiry as he thinks necessary, shall submit a report of his proceedings to the Commissioner.

Report of enquiry and proceedings thereon.

On receipt of such report, the Commissioner may (*a*) direct a further enquiry, or (*b*) dismiss the application, or (*c*), by order published in the *Sindh Official Gazette*, appoint an officer (hereinafter called the Manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

III.—OF THE ORDER OF MANAGEMENT.

7. Such order (hereinafter called "the order of management") shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date.

"Order of management" to what it extends.

The management shall be deemed to commence from the date on which the order is published.

Commencement of management.

8. On the publication of the order of management the following consequences shall ensue:

Effect of order of management.

First, all proceedings then pending in any Civil Court in British India in respect to the debts and liabilities mentioned in section seven shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended;

Stay of pending proceedings, &c.

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court in British India in respect of such debts and liabilities;

Bar of fresh proceedings.

Thirdly, so long as the management continues the debtor shall be incompetent

The debtor incompetent

to contract debts,

(*a*) to enter into any contract involving him in pecuniary liability, or

to encumber or alienate property under management,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom:

to grant receipts for rent thereof.

Provided that nothing contained in this clause shall be deemed to preclude the Manager from letting and the debtor from taking the whole or any part of such property on such terms consistent with this Act, as may be agreed upon between the parties;

Fourthly, so long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

9. The Manager shall, during the management, receive and recover all rents and profits due in respect of the property under management,

Manager to receive rents and profits,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a jágírdár or zamíndár, as the case may be, all the powers possessed by a Collector, under the law for the time being in force, for the recovery of land-revenue due to Government.

to have powers of a Collector for their recovery.

In the event of any dispute arising as to the liability of any person to pay any such rent or profit, or as to the amount thereof, the decision of the Manager shall be binding until set aside by a competent Court.

10. From the sums received or recovered under section nine, the Manager shall pay

Manager to pay therefrom—

First, the Government revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management,

Government revenue, &c.,

Secondly, the rent (if any) due to the jágírdár or other superior holder, in respect of the said property;

rent due to superior holder,

Thirdly, such periodical allowance as the Commissioner may from time to time fix for the maintenance of the debtor and his family,

allowance for maintenance of debtor,

Fourthly, the cost of such repairs and improvements of the said property as he thinks necessary, and

cost of repairs, &c.,

Fifthly, the costs of the management.

cost of management.

The residue shall be retained by the Manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section seven other than those so due or incurred to Government.

Residue how disposed of.

11. At any time after the management has commenced the Manager may demise all or any part of the property under management for any term of years not exceeding three years to take effect in possession, so as there be reserved the best yearly rent that can be reasonably gotten without taking anything in the nature of a fine.

Power to make short leases.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the Manager shall publish in the *Sindh Official Gazette* a notice in English and Sindhi, calling upon all persons having claims against the debtor, or the property under management, to notify the same in writing to such Manager within six months from the date of the publication.

Notice to claimants against debtor.

He shall also cause copies of such notice to be exhibited at the Mukhtiárkárs' kachahrís in the district in which the said property lies, and at such other places as he thinks fit.

Copies of notice to be exhibited.

13. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

14. Every such claim (other than claims of the Government) not notified to the Manager within the time and in the manner required by such notice shall, except as provided in section twenty-one, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Claim not duly notified to be barred.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of section twelve, the Manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Provision for admission of claims within further period of six months.

15. The Manager shall inquire into the history and merits of every claim received under sections twelve and fourteen, and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities (if any) due to the several claimants.

Determination of debts and liabilities.

16. No claim shall be allowed which was barred by the law of limitation when the order of management was published.

Time-barred claims not to be allowed.

17. If on any inquiry under section fifteen it appears that, having regard to the principal amount of the debt or liability as originally incurred, and to all the circumstances of the case, the amount from time to time debited to the debtor on account of interest, though debited in accordance with the agreement between the parties, is unconscionably large, the Manager may re-open the account as far back as he deems fit, and allow for interest to the date of his decision only such amount as to him may seem fair and reasonable.

Power to reduce interest.

18. An appeal against any decision or order under section fourteen, fifteen, sixteen, or seventeen shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

Appeal.

There shall be no appeal against the decision of the Commissioner on such appeal.

19. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Scheme for liquidation.

Every such scheme shall further provide (*a*) for the continuance of the payments to be made by the Manager under section ten, (*b*) for the order in which such debts and liabilities shall be paid and discharged, and (*c*) for the rate of interest (if any) on the aggregate amount finally awarded under this Part in respect of each claim from the date of the final decision on such claim to the date of the payment and discharge thereof.

Provisions of scheme.

Any such scheme may further provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

May provide for improving the property.

20. The Commissioner may—

Proceedings of Commissioner on submission of scheme.

(*a*) as often as he thinks fit send back such scheme to the Manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him either as it stands, or subject to such modifications as he may deem expedient.

21. At any time before he has sanctioned a liquidation-scheme under section twenty, the Commissioner may by an order published in the *Sindh Official Gazette*, direct that on a date fixed by such order the management shall be relinquished.

Power to relinquish management.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession and enjoyment thereof, subject to any leases made under section eleven;

(*c*) any residue of the rents and profits of the said property retained under the last clause of section ten shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section eight, and the debts and liabilities barred by section fourteen, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

22. On the sanction of the liquidation-scheme by the Commissioner—

Effects of sanctioning scheme.

1*st*, all proceedings, processes, executions and attachments stayed or suspended under section eight shall be for ever barred, and

2*nd*, every debt or liability due or owing to any person which was proveable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Part IV of this Act in respect of such debt or liability.

23. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the Manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

Power to remove mortgagee in possession.

If such incumbrancer refuse or neglect to obey such order, the Manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation-scheme the amount (if any) awarded to him under Part IV of this Act.

24. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the Manager, with the sanction of the Commissioner, may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appear to him insufficient, may by order, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the Manager thinks fit, and in default of such payment the lease shall be cancelled.

Power to inquire into consideration given for leases.

25. Subject to ther ules made under section thirty-one, the Manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions as may be agreed upon.

Power to lease.

26. At any time after the liquidation-scheme has been sanctioned as aforesaid, the Manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme,

Power to raise money by mortgage or sale.

(*a*) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(*b*) by selling, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the said property as may appear expedient:

Provided that no property shall be sold under this section without the previous consent of the owner thereof, and of the person or persons being of full age who would be his heir or heirs if he then died intestate.

27. The Manager's receipt for any moneys, rents or profits raised or received by him under this Act, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipt to be a discharge.

28. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the Manager shall publish in the *Sindh Official Gazette* a notice fixing a date for the termination of the management.

Termination of management.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the Manager under the power conferred by section twenty-six, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers conferred by sections eleven, twenty-five and twenty-six.

29. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes hereinbefore provided,

Death of debtor during management.

1*st*, the management shall continue and proceed in all respects as if such debtor were still living;

2*ndly*, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (*b*) and (*c*) of section eight; and

3*rdly*, no Civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management for or in respect of any debt or liability incurred by any such person whether before or after his succession.

30. When a jágírdár or zamíndár has been restored under section twenty-eight to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such jágírdár or zamíndár, shall be valid as to any time beyond his natural life.

Mortgages, &c., made by restored jágírdár valid only for his life.

VI.—MISCELLANEOUS.

31. The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act—

Power to make rules.

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Part IV of this Act; and in particular as to the allowance of interest, and the order of paying debts and liabilities;

(*d*) to provide for the exercise by any officer conducting an enquiry under this Act of any power exercised by a Civil Court in the trial of suits;

(*e*) for investing any moneys received or raised by the Manager under this Act in any Government securities of British India, and for the sale of such securities, and

(*f*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Sindh Official Gazette*, and when so published shall have the force of law.

32. Whenever the Commissioner thinks fit, he may suspend or remove any Manager and may appoint any officer in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Power to appoint new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

33. Every Manager appointed under this Act, shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers to be public servants.

34. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

35. No suit or other proceeding shall be maintained against any person in respect of any thing done by him *bond fide* pursuant to this Act,

Bar of suits.

36. Nothing in this Act precludes the Courts in Sindh having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

Saving of jurisdiction of Courts in Sindh in respect of certain suits.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill, which has been prepared at the desire of the Local Government, is to provide for the relief of certain Jágírdárs and Zamíndárs in Sindh, whose estates are heavily encumbered. The Bill closely resembles the measures which have been passed of late years for the relief of the Taluqdárs of Oudh, the Thákurs of Broach, and the landholders of Chutiá Nágpur, and the reasons for introducing it are substantially the same as the reasons which led to those enactments.

As the Bill purports to bar certain suits throughout British India, the Bombay legislature is incompetent to pass it.

SIMLA, *The 22nd June* 1876. } T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month.

No. 8 of 1876.

A Bill to amend the law relating to the transfer of Bombay Municipal Debentures.

Whereas under the Bombay Municipal Act of 1865, the Justices of the Peace for the City of Bombay were empowered to mortgage for the purposes therein mentioned the rates and taxes imposed and levied under that Act:

Preamble.

And whereas by section 255 of the same Act it was enacted that any person entitled to any such mortgage might transfer his right and interest therein to any other person, and that every such transfer should be by deed duly stamped, wherein the consideration should be truly stated, and that every such transfer might be according to the form in Schedule K to the said Act annexed or to the like effect:

And whereas in exercise of the said power divers mortgages of the said rates and taxes have been made, and the mortgagees have purported to transfer their mortgages to other persons, but such transfers have been by simple endorsement and not by deed duly stamped:

And whereas it is expedient to provide that such transfers may hereafter be made by endorsement, and to confirm the said transfers heretofore made,

and to exempt the parties thereto from the penalties which they have incurred by reason of their failure to comply with the provisions of the said section and of the law relating to stamp-duties for the time being in force;

It is hereby enacted as follows:—

Transfers of Bombay Municipal debentures to be by endorsement and free from stamp-duty.

1. Every mortgage of rates and taxes, authorized to be made under the said Bombay Municipal Act of 1865, shall be transferable by endorsement on the instrument of mortgage, and no such endorsement shall be chargeable with any stamp-duty.

Validation of former transfers by endorsement.

2. Every transfer of any such mortgage heretofore made by endorsement shall be, and be deemed to have been, as valid as if this Act had been in force at the date of such transfer; and no stamp-duty shall be, or be deemed to have been, chargeable in respect of any such transfer; and no penalty shall be deemed to have been incurred by reason of any failure to comply with the provisions of the said section 255 or of the law relating to stamp-duties for the time being in force.

STATEMENT OF OBJECTS AND REASONS.

Under the power conferred by the Bombay Municipal Act (Bombay Act No. II of 1865), numerous mortgages (generally called Municipal Debentures) were made of the rates and taxes imposed and levied under that Act. The mortgagees in many, if not in all, instances have purported to transfer their interests to other persons. In so doing, however, the directions contained in section 255 of that Act, that every such transfer should be "by deed duly stamped, wherein the consideration shall be truly stated," have been unintentionally disregarded, and the transfers have been made by simple unstamped endorsement.

The objects of this Bill, which has been prepared at the request of the Local Government, are, first, to assimilate in Bombay the law as to the transfer of Municipal debentures to that which prevails in the other Presidency Towns under Bengal Act IV of 1876, section 335, and Madras Act IX of 1867, section 98, and, secondly, to validate the transfers which have already been made of the Bombay Municipal debentures, and to relieve the parties thereto from the penalties which they have incurred from their neglect of the requirements of the Stamp Act.

SIMLA;
16th June 1876. } T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month.

No. 9 of 1876.

A Bill to amend the Stage Carriages Act.

Preamble.

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages; It is hereby enacted as follows:—

Amendment of Act XVI of 1861, s. 21.

1. For the third sentence of section 21 of the said Act, the following shall be substituted (that is to say):

"The term 'horse' shall include ponies, mules, camels, and oxen."

Local extent of Act XVI of 1861.

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

STATEMENT OF OBJECTS AND REASONS.

The Government of the North-Western Provinces has recently called the attention of the Government of India to the necessity of bringing conveyances drawn by camels within the scope of the Stage Carriages Act of 1861. The primary object of the present Bill is to make this amendment; and the opportunity has been taken to render the Act applicable also to carriages drawn by oxen, and to declare it to be in force throughout British India.

SIMLA;
The 22nd June 1876. } E. C. BAYLEY.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th July 1876:—

[First publication.]

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to Opium was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Note by the Hon'ble Sir W. Muir, dated 2nd September 1875.
Despatch from Secretary of State, No. 43, dated 31st August 1875.
From Chief Commissioner, Oudh, No. 3478, dated 27th September 1875.
„ Secretary to Government, North-Western Provinces, No. 152A, dated 4th October 1875.
„ Chief Commissioner, Assam, No. 3464, dated 28th September 1875.
„ Officiating Secretary to Chief Commissioner, Central Provinces, No. 3787-165, dated 21st October 1875, and enclosure.
„ Secretary to Government, Panjáb, No. 2186, dated 29th October 1875.
„ „ „ Bengal, No. 2643, dated 10th November 1875.
„ Chief Commissioner, British Burma, No. 1933-400, dated 14th November 1875.
Endorsement, Financial Department, No. 2974, dated 14th December 1875, forwarding despatch from Secretary of State, No. 46, dated 21st October 1875.
From Officiating Secretary to Chief Commissioner, Mysore, No. 7836-6J, dated 18th January 1876.
„ Government of Madras, No. 6, dated 24th January 1876.
„ „ Bombay, No. 1498, dated 8th March 1876, and enclosures.
Suggestions by J. R. Naylor, Esq.
Demi-official from Collector of Salt Revenue, Bombay, dated 27th March 1876.
From Acting Commissioner of Customs, Bombay, No. 1540, dated 30th July 1874, and enclosures.
Extract from the Proceedings of the Government of Bombay, No. 5448, dated 14th October 1874.
Extract from the Proceedings of the Government of Bombay, No. 119, dated 9th January 1875.
From Acting Chief Secretary to the Government of Bombay, No. 3330, dated 6th June 1876.

2. We think that the proposed Act should come into force throughout British India on 1st January 1877.

3. Act No. VII of 1836 declared that the legality of acts done under the two Bombay Regulations which the Bill proposes to repeal, should not be questioned in any Court of law. That Act was repealed by Act VIII of 1868, but not so as to restore the jurisdiction thus withdrawn. We have endeavoured to maintain the present state of affairs by declaring that the reference made in Act No. VII of 1836 to those Regulations shall be read as if made to the corresponding provisions of the Bill.

4. We have defined "opium" so as to include poppy-heads and all intoxicating drugs prepared from the poppy, and "Magistrate" so as to confine criminal jurisdiction under the proposed Act to Presidency Magistrates and (in the Mofussil) Magistrates of the first class.

5. We have repealed and consolidated all extant enactments relating to opium, except the local and departmental rules contained in sections 3 to 31 of Act XIII of 1857. The Bill, accordingly, now not merely authorizes the Local Government to make rules as to poppy-cultivation and the possession, transport and sale of opium, it also provides rules as to the import, export and warehousing of opium; and it empowers the Local Government, with the previous sanction of the Governor General in Council, to prohibit or permit poppy-cultivation and the manufacture, possession, transport, import, export, or sale of opium, to make rules as to the manufacture, import, or export of opium, as to its safe custody and removal when warehoused, as to the disposal of things confiscated under the proposed Act, and as to rewards to officers and informers.

6. The penalties incurred for contravening the proposed Act, or any rule made thereunder, are a year's imprisonment, fine for Rs. 1,000, or both; and where a fine is imposed, we have required (in accordance with Bombay Regulation XXI of 1827, section 7) the convicting Magistrate to direct the offender to be imprisoned in default of payment for a term which may extend to six months.

7. We have extended the power of confiscation to the whole of the opium which an offender against the rules as to transport, import or export, is transporting, importing or exporting, as the case may be; and, when the offence is against the rules as to sale, to the whole of the opium in the offender's possession.

8. We have declared that, in prosecutions under the proposed Act, all opium for which the accused is unable satisfactorily to account shall be presumed to be opium in respect of which an offence has been committed.

9. When an offender against the Act is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, we have provided for an enquiry and confiscation by the Collector of the district, or other proper officer.

10. We have empowered any duly authorized officer of any of the departments of Excise Police, Customs, Salt, Opium or Revenue, superior in rank to a Peon or Constable, on receiving written information that opium is unlawfully kept in an enclosed place, to enter, seize and arrest; and we have empowered any officer of any of those departments to seize opium carried in an open place, which he has reason to believe liable to confiscation, and to arrest the person carrying it. We have required these officers to assist each other.

11. We have provided for the issue of warrants for arrest or search, and for the disposal of persons arrested and things seized.

12. We have provided a penalty for vexatious searches, seizures and arrests under the proposed Act, and we think that every officer making an arrest or seizure should within forty-eight hours report the particulars to his official superior.

13. We have also provided, in places where Act XIII of 1857 is not in force, for the attachment of a poppy-crop alleged to be illegally cultivated.

14. Lastly, we have declared that arrears of taxes, &c., due under the proposed Act or rules, and arrears due from farmers of opium-revenue, may be recovered as if they were arrears of land-revenue.

15. The publication ordered by the Council has taken place; but the Bill has been so much altered that we think that it should be republished, with this report, in the *Gazette of India* and in the local Gazettes.

W. MUIR.
R. H. DAVIES.
A. HOBHOUSE.
JOHN INGLIS.
T. C. HOPE.
F. R. COCKERELL.

SIMLA;
26th June 1876.

No. II.

THE OPIUM BILL, 1876.

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SCHEDULE.

A Bill to amend the law relating to Opium.

Preamble. Whereas it is expedient to amend the law relating to opium; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Opium Act, 1876":

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of January 1877.

Repeal of enactments. 2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. And in Acts No. XI of 1849, No. XXI of 1856 and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

Amendment of Act VII of 1836, s. 1. The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

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

"Opium." "Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

"Magistrate." "Magistrate" means in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class.

Import of opium. 4. No opium shall be imported, by land or by sea, into any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or a Local Government; or

(*b*) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(*c*) such import is permitted under the power next hereinafter conferred.

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the import of opium, or of any kind of opium, by land into any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Export of opium. 5. No opium shall be exported by land or by sea from any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government; or

(*b*) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(*c*) such export is permitted under the power next hereinafter conferred:

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the export of opium by land or by sea from any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Customs laws applied to opium. 6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

Warehousing opium. 7. The Governor General in Council may, by order notified in the *Gazette of India*, authorize any Local Government to establish warehouses for opium legally imported into or intended to be exported from the territories subject to such Local Government, and may cancel any such order.

So long as such order remains in force, the Local Government may declare, by notification published in the official Gazette, any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence.

On and after such publication the owner of all such opium shall be bound to deposit it in such warehouse.

Power to make rules as to poppy-cultivation, opium, &c. 8. The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

(*a*) the cultivation of the poppy;

(*b*) the manufacture of opium;

(*c*) the possession of opium;

(*d*) the transport of opium from one place to another within British India;

(*e*) the importation or exportation of opium into or out of British India;

(*f*) the sale of opium;

and to regulate within the whole or any specified part of such territories all or any of the matters aforesaid, and also

(*g*) the safe custody of opium warehoused under section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(*h*) the disposal of all things confiscated under this Act;

(*i*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor General in Council, and on receiving such sanction, shall be published in the local official Gazette, and shall thereupon have the force of law.

Prohibition of poppy-cultivation and possession, &c., of opium. 9. Unless in accordance with this Act or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

(*a*) cultivate the poppy;

(*b*) manufacture opium;

(*c*) possess opium;

(*d*) transport opium from one place to another within British India;

(*e*) import or export opium into or out of British India; or

(*f*) sell opium.

Penalty for illegal cultivation of poppy, &c. 10. Whoever in contravention of this Act, or of rules made and published under section eight,

(*a*) cultivates the poppy, or

(*b*) manufactures opium, or

(*c*) possesses opium, or

(*d*) omits to warehouse opium when bound to do so under section seven, or

(*e*) transports opium from one place to another within British India, or

(*f*) imports or exports opium into or out of British India, or

(*g*) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned

in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

11. In prosecutions under section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Presumption as to opium.

12. In any case in which an offence under section ten has been committed—

Confiscation of opium.

(*a*) the poppy so cultivated,

(*b*) the opium in respect of which any offence under the same section has been committed,

(*c*) where, in the case of an offence under clause (*e*) or (*f*) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting,

(*d*) where, in the case of an offence under clause (*g*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and

(*e*) the vessels, packages and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it,

shall be liable to confiscation.

13. When the offender is convicted, such confiscation may be ordered by the convicting Magistrate.

Order of confiscation by whom to be made.

When an offence against this Act has been committed, but the offender is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

(*a*) enter into any such building, vessel or place,

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry,

(*c*) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(*d*) detain and search, and if he think proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

15. If any officer of any of the said departments find

Power to seize opium found in open place and arrest possessor.

(*a*) any person in any open place whom he has reason to believe to be carrying any opium, or

(*b*) any person having in any open place any opium in his possession, or

(*c*) any opium in transit,

and such officer has reason to believe that the opium mentioned in clause *a*, clause *b*, or clause *c* of this section is opium in respect of which an offence has been committed, or which is liable to confiscation under this Act or any other law relating to opium for the time being in force,

he may stop and detain such person,

and may seize such opium and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium,

and may arrest such person, if opium be found in his possession, and any other persons in his company.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers to assist each other.

18. Any officer of any of the said departments who without reasonable ground of suspicion enters, or searches, or causes to be entered or searched any building, vessel or place,

Vexatious entries, searches, seizures and arrests.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

19. The Collector of the District, Deputy Commissioner or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom

Issue of warrants.

he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Disposal of person arrested or thing seized.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his official superior.

Report of arrests and seizures.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Procedure in case of illegal poppy-cultivation.

Provided that wherever Act No. XIII of 1857 (*An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*) or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

23. Any arrear of tax, fee or duty due under this Act or under any rule duly made under section eight,

Recovery of arrears of taxes and opium-revenue.

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

SCHEDULE.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849.	Abkárí Revenue of Calcutta	In section 5, the word "opium." In section 6, the word "opium" and the last thirty-one words.
Act III of 1852.	Spirituous liquors, Bombay...	Section 10, so far as it relates to opium.
Act XXI of 1856.	Bengal Abkárí Act ...	In section 28, the word "opium." Sections 34, 51, 52, 53 and 87. In section 35, the words "or opium." In section 49, the words "except opium." Section 59, so far as it relates to opium. In section 75, the words "except opium" and from and including the words "opium seized" down to the end. In section 76, from and including the words "except opium" down to and including the words "each seer," and from and including the words "or, in" down to and including the words "each seer." In paragraph 8 of section 90, the words "and opium."
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	Section 2. In section 15, from and including the words "except in the case", to the end of the section. In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."

Number and year.	Subject.	Extent of repeal.
Act X of 1871.	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium."
		Sections 18, 65, 66, 67 and 87.
		In section 19, the words "or opium."
		Section 46, so far as it relates to opium.
		In section 46, paragraph 3 from and including the words "as well as" down to and including the words "dealings in opium."
		In section 63, the words "except opium."
		In section 78, the words "except opium," and paragraph 2.
		In section 79, from and including the words "except opium" down to and including the words "each ser" and from and including the words "or in" down to and including the words "each ser."
Act IV of 1872.	The Panjáb Laws Act ...	Section 49.
Act XXVI of 1872.	Panjáb Opium Law Amendment.	The whole Act.
Act VI of 1873.	Transhipment of goods ...	Section 7.
Act XVI of 1875.	The Indian Tariff Act ...	Section 9.

BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bom. Reg. XXI of 1827.	Duty on opium	The preamble from and including the words "with the combined" down to and including the words "be prohibited." Chapters I, II, III and IV.
Bom. Reg. XX of 1830.	Malwa opium	So much as has not been repealed.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 15, 1876.

☞ **Separate paging is given to this Part in order that it may be filed as a separate compilation.**

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in four months:—

No. 6 of 1876.

A Bill to amend the Indian Registration Act, 1871.

Preamble. For the purpose of amending the Indian Registration Act, 1871; It is hereby enacted as follows:—

Amendment of Act VIII of 1871, section 7. 1. For section seven the following shall be substituted:—

"7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office or offices to be styled the Office of the Sub-Registrar or the Offices of the Joint Sub-Registrars,

Offices of Registrar and Sub-Registrar.

and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar,

and may authorize any Sub-Registrar whose Office has been so amalgamated to exercise and perform all or any of the powers and duties of a Registrar other than the powers conferred by sections sixty-eight and seventy-two."

Addition of clause (*d*) to section 17. 2. In section seventeen, after clause (*c*), the following clause shall be inserted (namely):—

"or (*d*) to any document merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any right, title or interest of the value of one hundred rupees and upwards, to or in immoveable property."

Amendment of section 18, clause (7). 3. In section eighteen, to clause (7) the words "All such" shall be prefixed, and for the last seven words of the same clause the following words shall be substituted (namely): "and other documents as are not required by section seventeen to be registered".

Addition to section 30, clause (*b*). 4. In section thirty, clause (*b*), after the word "Town," the words "and the Registrar of the Lahore District" shall be inserted.

Amendment of section 31. 5. For section thirty-one the following shall be substituted (namely):—

"31. In ordinary cases the presentation or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Presentation and deposit of documents at private residences.

But such officer may on special cause being shewn attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will."

Addition to section 34.

6. To section thirty-four, paragraph first, the following words shall be added (namely): "under sections twenty-three, twenty-four, twenty-five and twenty-six;" and in clause two of the same section, after the word "fee," the following words shall be inserted (namely): "in addition to the fine (if any) payable under section twenty-four."

Amendment of sections 42 to 45.

7. For sections forty-two, forty-three, forty-four and forty-five, the following shall be substituted (namely):—

Deposit of wills in sealed covers.

"42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any), and with a statement of the nature of the document.

Procedure on depositing wills.

"43. On receiving such cover the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-Book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

The Registrar shall then place and retain the cover in his fireproof box.

Withdrawal of covers containing wills.

"44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit; and such Registrar, if he be satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Procedure on testator's death.

"45. If on the death of a testator who has deposited a sealed cover under section forty-two, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall in the applicant's presence open the cover, and at the applicant's expense cause the contents thereof to be copied into his Book No. 3."

Amendment of section 46.

8. In section forty-six, for the second sentence, the following shall be substituted (namely): "But whenever any such order is made, the Registrar shall, unless the will has already been copied under section forty-five, open the cover and copy the will in his Book No. 3, and shall make a note in such Book that the original has been removed into Court in pursuance of the order aforesaid."

Addition to section 50.

9. To section fifty the following words shall be prefixed (namely): "Every document mentioned in clauses (1), (2), (3) and (4) of section seventeen, and."

Amendment of section 59.

10. In section fifty-nine, for the words "the last preceding section," the words "sections fifty-two and fifty-eight" shall be substituted.

Addition to sections 64 and 65.

11. In section sixty-four and in the first paragraph of section sixty-five, after the word "document," the words "not testamentary" shall be inserted.

Amendment of section 71, clause 2.

12. In section seventy-one, for clause two, the following shall be substituted (namely):—

"except on the ground—

(*a*) that the property to which it relates is not situate within his District or Sub-District; or

(*b*) that he is a Registrar and that the document ought to be registered in the Office of a Sub-Registrar."

Addition to section 78.

13. To section seventy-three the following explanation shall be added (namely):—

"EXPLANATION.—In this section 'District Court' means the principal civil Court of original jurisdiction within the local limits of which is situate the Office in which the order of refusal was made."

'Section' defined.

14. In this Act 'section' means section of the said Indian Registration Act, 1871.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make in the Registration Act thirteen amendments which the experience of the past five years has shown to be desirable.

Of these, the first is intended to authorize the Local Governments to establish in each Sub-District more Sub-Registrars than one, who will exercise concurrent jurisdiction. The absence of such a power has been found inconvenient in the Lower Provinces, and, probably, elsewhere. Power is also expressly given to authorize any Sub-Registrar whose Office has been amalgamated with that of a Registrar to exercise all the powers of a Registrar other than those conferred by sections 68 and 72. Some doubt had arisen whether or no such a power was implied.

The second embodies in section seventeen of the Act the resolution of the Government of India in the Home Department No. 51-1906, dated 10th July 1874. Its effect is to expressly exempt from compulsory registration documents merely creating a right to obtain other documents, which will, when executed, create, &c., rights of the value of Rs. 100 and upwards to immoveable property.

The third is intended to make it clear that section 18, clause (7), is not to encroach upon the provisions of section 17.

The fourth places the Registrar of the Lahore District on the same footing, as regards documents relating to land situate in any part of British India, as the Registrars of Districts including the Presidency Towns. This change has been made on the recommendation of the Local Government.

The fifth simply amends the drafting of section 31 of the Act.

The sixth expresses distinctly two of the intentions of the legislature in framing section 34 of the Act, *viz.*, that the time allowed for presentation is the time allowed under the first four sections of Part IV, *i. e.*, not merely the time (four months) ordinarily allowed, but also any extension of that period allowed under sections 24, 25, 26, and that, not only the fine mentioned in section 34, but the fines, if any, payable under section 24, must be paid in case of delay in appearing before the Registrar.

The seventh amends the drafting of sections 42 and 43, and expressly confines, in accordance with the intention of the framers of Act VIII of 1871, sections 44 and 45 to cases in which the testator himself, as distinguished from a depositing agent, desires to withdraw the deposit, or has died.

The eighth exempts the Registrar from the duty of copying a will under section 46 when it has already been copied under section 45; and when he has to copy a will, expressly empowers him to open the sealed cover in which it is preserved.

The ninth is an amendment of section 50, and is intended to supply a defect which has already given rise to fraudulent practices. That section now provides that registered documents relating to land, of which the registration is optional, shall take effect against unregistered documents. But it makes no such provision as to documents of which the registration is compulsory and which have accordingly been registered. Deeds coming under section 18 of the Act, whether registered or not, take effect against deeds registered under section 17, according to date of execution. The result is that, although a registered deed creating a right of the value of Rs. 99 to land cannot be defeated by an unregistered deed, a registered deed creating a similar right worth Rs. 101 may be defeated by an antedated unregistered deed creating a right worth anything under Rs. 100. The mischief feared is an extensive fabrication of falsely dated deeds purporting to create rights of small value in order to defeat deeds creating rights of large value. The remedy which the Bill proposes is to make documents registered under section 17 take effect against unregistered documents.

The tenth amendment is in section 59. That section now provides only for dating and signing endorsements made under section 58. It is desirable to make a similar provision for endorsements made under section 52.

The eleventh amendment consists in expressly excluding wills and codicils from sections 64 and 65.

The twelfth amendment effects a slight, but desirable, amendment in the drafting of section 71.

The thirteenth and last amendment clears up a doubt which has been raised as to the meaning in section 72 of the expression "District Court."

SIMLA;
The 5th June 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 7 of 1876.

THE SINDH INCUMBERED ESTATES BILL, 1876.

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A Bill to relieve from Incumbrances the estates of Jágírdárs and Zamíndárs in Sindh.

Preamble.

Whereas many Jágírdárs and Zamíndárs in Sindh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Sindh Incumbered Estates Act, 1876":

Commencement.

And it shall come into force on the passing thereof.

Interpretation-clause.

2. In this Act—

"Jágír-land."

'Jágír-land' includes also a share held hereditarily of the revenues of a Government village, but does not include *siri* or *mánmi* or garden-grants:

"Jágírdár."

"Jágírdár" means a person who was in possession of jágír-land in Sindh on the seventeenth day of February 1843, and has since been in possession of the same land or of a portion thereof, or of other jágír-land assigned by the British Government in lieu thereof, and who holds a sanad granted under the authority of the said Government confirming his title.

For the purposes of this definition, the possession of any person from whom jágír-land has descended by way of inheritance shall be deemed to be the possession of the person to whom such land has so descended:

"Zamíndár."

"Zamíndár" means a person holding lands in Sindh on the aggregate of which he has paid, direct to the Government, on account of land-revenue for any one of the five revenue years next before the passing of this Act, a sum not less than three hundred rupees:

"Commissioner."

"Commissioner" means the Commissioner in Sindh.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for the benefit of this Act.

3. At any time within twelve months after the passing of this Act, any jágírdár or zamíndár,

or any person who would be sole heir or one of the heirs to such jágírdár or zamíndár if he then died intestate,

may apply, in writing, to the Commissioner, stating that such jágírdár or zamíndár is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities, other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any jágírdár, zamíndár or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person or by the legally constituted administrator or manager of his estate.

Order to enquire.

4. When any such application is made by or on behalf of a jágírdár, or the person who would be his sole heir if he then died, the Commissioner shall direct an enquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of Bombay in Council in this behalf, either to reject such application or to direct an enquiry to be made as aforesaid.

Verified statement to be submitted.

5. When an enquiry has been directed under section four, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such enquiry a statement duly verified by the said

applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

False averments in statement.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

Report of enquiry and proceedings thereon.

6. The officer so appointed, after making such enquiry as he thinks necessary, shall submit a report of his proceedings to the Commissioner.

On receipt of such report, the Commissioner may (*a*) direct a further enquiry, or (*b*) dismiss the application, or (*c*), by order published in the *Sindh Official Gazette*, appoint an officer (hereinafter called the Manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

III.—OF THE ORDER OF MANAGEMENT.

"Order of management" to what it extends.

7. Such order (hereinafter called "the order of management") shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date.

Commencement of management.

The management shall be deemed to commence from the date on which the order is published.

Effect of order of management.

8. On the publication of the order of management the following consequences shall ensue:

Stay of pending proceedings, &c.

First, all proceedings then pending in any Civil Court in British India in respect to the debts and liabilities mentioned in section seven shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended;

Bar of fresh proceedings.

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court in British India in respect of such debts and liabilities;

The debtor incompetent

Thirdly, so long as the management continues, the debtor shall be incompetent

to contract debts,

(*a*) to enter into any contract involving him in pecuniary liability, or

to encumber or alienate property under management,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

to grant receipts for rent thereof.

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom:

Provided that nothing contained in this clause shall be deemed to preclude the Manager from letting and the debtor from taking the whole or any part of such property on such terms consistent with this Act, as may be agreed upon between the parties;

Fourthly, so long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

Manager to receive rents and profits,

9. The Manager shall, during the management, receive and recover all rents and profits due in respect of the property under management,

to have powers of a Collector for their recovery.

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a jágírdár or zamíndár, as the case may be, all the powers possessed by a Collector, under the law for the time being in force, for the recovery of land-revenue due to Government.

In the event of any dispute arising as to the liability of any person to pay any such rent or profit, or as to the amount thereof, the decision of the Manager shall be binding until set aside by a competent Court.

Manager to pay therefrom—

10. From the sums received or recovered under section nine, the Manager shall pay

Government revenue, &c.,

First, the Government revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management,

rent due to superior holder,

Secondly, the rent (if any) due to the jágírdár or other superior holder, in respect of the said property;

allowance for maintenance of debtor,

Thirdly, such periodical allowance as the Commissioner may from time to time fix for the maintenance of the debtor and his family,

cost of repairs, &c.,

Fourthly, the cost of such repairs and improvements of the said property as he thinks necessary, and

cost of management.

Fifthly, the costs of the management.

Residue how disposed of.

The residue shall be retained by the Manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section seven other than those so due or incurred to Government.

Power to make short leases.

11. At any time after the management has commenced the Manager may demise all or any part of the property under management for any term of years not exceeding three

years to take effect in possession, so as there be reserved the best yearly rent that can be reasonably gotten without taking anything in the nature of a fine.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the Manager shall publish in the *Sindh Official Gazette* a notice in English and Sindhi, calling upon all persons having claims against the debtor, or the property under management, to notify the same in writing to such Manager within six months from the date of the publication.

Notice to claimants against debtor.

He shall also cause copies of such notice to be exhibited at the Mukhtiárkárs' kachahrís in the district in which the said property lies, and at such other places as he thinks fit.

Copies of notice to be exhibited.

13. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

14. Every such claim (other than claims of the Government) not notified to the Manager within the time and in the manner required by such notice shall, except as provided in section twenty-one, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Claim not duly notified to be barred.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of section twelve, the Manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Provision for admission of claims within further period of six months.

15. The Manager shall inquire into the history and merits of every claim received under sections twelve and fourteen, and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities (if any) due to the several claimants.

Determination of debts and liabilities.

16. No claim shall be allowed which was barred by the law of limitation when the order of management was published.

Time-barred claims not to be allowed.

17. If on any inquiry under section fifteen it appears that, having regard to the principal amount of the debt or liability as originally incurred, and to all the circumstances of the case, the amount from time to time debited to the debtor on account of interest, though debited in accordance with the agreement between the parties, is unconscionably large, the Manager may re-open the account as far back as he deems fit, and allow for interest to the date of his decision only such amount as to him may seem fair and reasonable.

Power to reduce interest.

18. An appeal against any decision or order under section fourteen, fifteen, sixteen, or seventeen shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

Appeal.

There shall be no appeal against the decision of the Commissioner on such appeal.

19. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the Manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Scheme for liquidation.

Every such scheme shall further provide (*a*) for the continuance of the payments to be made by the Manager under section ten, (*b*) for the order in which such debts and liabilities shall be paid and discharged, and (*c*) for the rate of interest (if any) on the aggregate amount finally awarded under this Part in respect of each claim from the date of the final decision on such claim to the date of the payment and discharge thereof.

Provisions of scheme.

Any such scheme may further provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

May provide for improving the property.

20. The Commissioner may—

Proceedings of Commissioner on submission of scheme.

(*a*) as often as he thinks fit send back such scheme to the Manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him either as it stands, or subject to such modifications as he may deem expedient.

21. At any time before he has sanctioned a liquidation-scheme under section twenty, the Commissioner may by an order published in the *Sindh Official Gazette*, direct that on a date fixed by such order the management shall be relinquished.

Power to relinquish management.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession and enjoyment thereof, subject to any leases made under section eleven;

(*c*) any residue of the rents and profits of the said property retained under the last clause of section ten shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section eight, and the debts and liabilities barred by section fourteen, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

22. On the sanction of the liquidation-scheme by the Commissioner—

Effects of sanctioning scheme.

1*st*, all proceedings, processes, executions and attachments stayed or suspended under section eight shall be for ever barred, and

2*nd*, every debt or liability due or owing to any person which was proveable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Part IV of this Act in respect of such debt or liability.

23. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the Manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

Power to remove mortgagee in possession.

If such incumbrancer refuse or neglect to obey such order, the Manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation-scheme the amount (if any) awarded to him under Part IV of this Act.

24. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the Manager, with the sanction of the Commissioner, may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appear to him insufficient, may by order, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the Manager thinks fit, and in default of such payment the lease shall be cancelled.

Power to inquire into consideration given for leases.

25. Subject to ther ules made under section thirty-one, the Manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions as may be agreed upon.

Power to lease.

26. At any time after the liquidation-scheme has been sanctioned as aforesaid, the Manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme,

Power to raise money by mortgage or sale.

(*a*) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(*b*) by selling, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the said property as may appear expedient:

Provided that no property shall be sold under this section without the previous consent of the owner thereof, and of the person or persons being of full age who would be his heir or heirs if he then died intestate.

27. The Manager's receipt for any moneys, rents or profits raised or received by him under this Act, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipt to be a discharge.

28. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the Manager shall publish in the *Sindh Official Gazette* a notice fixing a date for the termination of the management.

Termination of management.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the Manager under the power conferred by section twenty-six, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers conferred by sections eleven, twenty-five and twenty-six.

29. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes hereinbefore provided,

Death of debtor during management.

1*st*, the management shall continue and proceed in all respects as if such debtor were still living;

2*ndly*, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabili-

ties imposed by clauses (*b*) and (*c*) of section eight; and

3rdly, no Civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management for or in respect of any debt or liability incurred by any such person whether before or after his succession.

30. When a jágírdár or zamíndár has been restored under section twenty-eight to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such jágírdár or zamíndár, shall be valid as to any time beyond his natural life.

Mortgages, &c., made by restored jágírdár valid only for his life.

VI.—MISCELLANEOUS.

31. The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act—

Power to make rules.

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Part IV of this Act; and in particular as to the allowance of interest, and the order of paying debts and liabilities;

(*d*) to provide for the exercise by any officer conducting an enquiry under this Act of any power exercised by a Civil Court in the trial of suits;

(*e*) for investing any moneys received or raised by the Manager under this Act in any Government securities of British India, and for the sale of such securities, and

(*f*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Sindh Official Gazette*, and when so published shall have the force of law.

32. Whenever the Commissioner thinks fit, he may suspend or remove any Manager and may appoint any officer in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Power to appoint new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

33. Every Manager appointed under this Act, shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers to be public servants.

34. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

35. No suit or other proceeding shall be maintained against any person in respect of any thing done by him *bonâ fide* pursuant to this Act.

Bar of suits.

36. Nothing in this Act precludes the Courts in Sindh having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

Saving of jurisdiction of Courts in Sindh in respect of certain suits.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill, which has been prepared at the desire of the Local Government, is to provide for the relief of certain Jágírdárs and Zamíndárs in Sindh, whose estates are heavily encumbered. The Bill closely resembles the measures which have been passed of late years for the relief of the Taluqdárs of Oudh, the Thákurs of Broach, and the landholders of Chutiá Nágpur, and the reasons for introducing it are substantially the same as the reasons which led to those enactments.

As the Bill purports to bar certain suits throughout British India, the Bombay legislature is incompetent to pass it.

SIMLA, *The 22nd June* 1876. } T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 8 of 1876.

A Bill to amend the law relating to the transfer of Bombay Municipal Debentures.

Whereas under the Bombay Municipal Act of 1865, the Justices of the Peace for the City of Bombay were empowered to mortgage for the purposes therein mentioned the rates and taxes imposed and levied under that Act:

Preamble.

And whereas by section 255 of the same Act it was enacted that any person entitled to any such mortgage might transfer his right and interest therein to any other person, and that every such transfer should be by deed duly stamped, wherein the consideration should be truly stated, and that every such transfer might be according to the form in Schedule K to the said Act annexed or to the like effect:

And whereas in exercise of the said power divers mortgages of the said rates and taxes have been made, and the mortgagees have purported to transfer their mortgages to other persons, but such transfers have been by simple endorsement and not by deed duly stamped:

And whereas it is expedient to provide that such transfers may hereafter be made by endorsement, and to confirm the said transfers heretofore made,

and to exempt the parties thereto from the penalties which they have incurred by reason of their failure to comply with the provisions of the said section and of the law relating to stamp-duties for the time being in force;

It is hereby enacted as follows :—

1. Every mortgage of rates and taxes, authorized to be made under the said Bombay Municipal Act of 1865, shall be transferable by endorsement on the instrument of mortgage, and no such endorsement shall be chargeable with any stamp-duty.

Transfers of Bombay Municipal debentures to be by endorsement and free from stamp-duty.

2. Every transfer of any such mortgage heretofore made by endorsement shall be, and be deemed to have been, as valid as if this Act had been in force at the date of such transfer; and no stamp-duty shall be, or be deemed to have been, chargeable in respect of any such transfer; and no penalty shall be deemed to have been incurred by reason of any failure to comply with the provisions of the said section 255 or of the law relating to stamp-duties for the time being in force.

Validation of former transfers by endorsement.

STATEMENT OF OBJECTS AND REASONS.

Under the power conferred by the Bombay Municipal Act (Bombay Act No. II of 1865), numerous mortgages (generally called Municipal Debentures) were made of the rates and taxes imposed and levied under that Act. The mortgagees in many, if not in all, instances have purported to transfer their interests to other persons. In so doing, however, the directions contained in section 255 of that Act, that every such transfer should be "by deed duly stamped, wherein the consideration shall be truly stated," have been unintentionally disregarded, and the transfers have been made by simple unstamped endorsement.

The objects of this Bill, which has been prepared at the request of the Local Government, are, first, to assimilate in Bombay the law as to the transfer of Municipal debentures to that which prevails in the other Presidency Towns under Bengal Act IV of 1876, section 335, and Madras Act IX of 1867, section 98, and, secondly, to validate the transfers which have already been made of the Bombay Municipal debentures, and to relieve the parties thereto from the penalties which they have incurred from their neglect of the requirements of the Stamp Act.

SIMLA; *16th June* 1876. } T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 9 of 1876.

A Bill to amend the Stage Carriages Act.

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages; It is hereby enacted as follows :—

Preamble.

1. For the third sentence of section 21 of the said Act, the following shall be substituted (that is to say):

Amendment of Act XVI of 1861, s. 21.

"The term 'horse' shall include ponies, mules, camels, and oxen."

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

Local extent of Act XVI of 1861.

STATEMENT OF OBJECTS AND REASONS.

The Government of the North-Western Provinces has recently called the attention of the Government of India to the necessity of bringing conveyances drawn by camels within the scope of the Stage Carriages Act of 1861. The primary object of the present Bill is to make this amendment; and the opportunity has been taken to render the Act applicable also to carriages drawn by oxen, and to declare it to be in force throughout British India.

SIMLA; *The 22nd June* 1876. } E. C. BAYLEY.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th July 1876 :—

[Second publication.]

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to Opium was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Note by the Hon'ble Sir W. Muir, dated 2nd September 1875.
Despatch from Secretary of State, No. 43, dated 31st August 1875.
From Chief Commissioner, Oudh, No. 3478, dated 27th September 1875.
" Secretary to Government, North-Western Provinces, No. 152A, dated 4th October 1875.
" Chief Commissioner, Assam, No. 3464, dated 28th September 1875.
" Officiating Secretary to Chief Commissioner, Central Provinces, No. 3787-165, dated 21st October 1875, and enclosure.
" Secretary to Government, Panjáb, No. 2186, dated 29th October 1875.
" " " Bengal, No. 2643, dated 10th November 1875.
" Chief Commissioner, British Burma, No. 1933-400, dated 14th November 1875.
Endorsement, Financial Department, No. 2974, dated 14th December 1875, forwarding despatch from Secretary of State, No. 46, dated 21st October 1875.
From Officiating Secretary to Chief Commissioner, Mysore, No. 7836-6J, dated 18th January 1876.
" Government of Madras, No. 6, dated 24th January 1876.
" " Bombay, No. 1498, dated 8th March 1876, and enclosures.
Suggestions by J. R. Naylor, Esq.
Demi-official from Collector of Salt Revenue, Bombay, dated 27th March 1876.
From Acting Commissioner of Customs, Bombay, No. 1540, dated 30th July 1874, and enclosures.
Extract from the Proceedings of the Government of Bombay, No. 5448, dated 14th October 1874.
Extract from the Proceedings of the Government of Bombay, No. 119, dated 9th January 1875.
From Acting Chief Secretary to the Government of Bombay, No. 3330, dated 6th June 1876.

2. We think that the proposed Act should come into force throughout British India on 1st January 1877.

3. Act No. VII of 1836 declared that the legality of acts done under the two Bombay Regulations which the Bill proposes to repeal, should not be questioned in any Court of law. That Act was repealed by Act VIII of 1868, but not so as to restore the jurisdiction thus withdrawn. We have endeavoured to maintain the present state of affairs by declaring that the reference made in Act No. VII of 1836 to those Regulations shall be read as if made to the corresponding provisions of the Bill.

4. We have defined "opium" so as to include poppy-heads and all intoxicating drugs prepared from the poppy, and "Magistrate" so as to confine criminal jurisdiction under the proposed Act to Presidency Magistrates and (in the Mofussil) Magistrates of the first class.

5. We have repealed and consolidated all extant enactments relating to opium, except the local and departmental rules contained in sections 3 to 31 of Act XIII of 1857. The Bill, accordingly, now not merely authorizes the Local Government to make rules as to poppy-cultivation and the possession, transport and sale of opium, it also provides rules as to the import, export and warehousing of opium; and it empowers the Local Government, with the previous sanction of the Governor General in Council, to prohibit or permit poppy-cultivation and the manufacture, possession, transport, import, export, or sale of opium, to make rules as to the manufacture, import, or export of opium, as to its safe custody and removal when warehoused, as to the disposal of things confiscated under the proposed Act, and as to rewards to officers and informers.

6. The penalties incurred for contravening the proposed Act, or any rule made thereunder, are a year's imprisonment, fine for Rs. 1,000, or both; and where a fine is imposed, we have required (in accordance with Bombay Regulation XXI of 1827, section 7) the convicting Magistrate to direct the offender to be imprisoned in default of payment for a term which may extend to six months.

7. We have extended the power of confiscation to the whole of the opium which an offender against the rules as to transport, import or export, is transporting, importing or exporting, as the case may be; and, when the offence is against the rules as to sale, to the whole of the opium in the offender's possession.

8. We have declared that, in prosecutions under the proposed Act, all opium for which the accused is unable satisfactorily to account shall be presumed to be opium in respect of which an offence has been committed.

9. When an offender against the Act is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, we have provided for an enquiry and confiscation by the Collector of the district, or other proper officer.

10. We have empowered any duly authorized officer of any of the departments of Excise Police, Customs, Salt, Opium or Revenue, superior in rank to a Peon or Constable, on receiving written information that opium is unlawfully kept in an enclosed place, to enter, seize and arrest; and we have empowered any officer of any of those departments to seize opium carried in an open place, which he has reason to believe liable to confiscation, and to arrest the person carrying it. We have required these officers to assist each other.

11. We have provided for the issue of warrants for arrest or search, and for the disposal of persons arrested and things seized.

12. We have provided a penalty for vexatious searches, seizures and arrests under the proposed Act, and we think that every officer making an arrest or seizure should within forty-eight hours report the particulars to his official superior.

13. We have also provided, in places where Act XIII of 1857 is not in force, for the attachment of a poppy-crop alleged to be illegally cultivated.

14. Lastly, we have declared that arrears of taxes, &c., due under the proposed Act or rules, and arrears due from farmers of opium-revenue, may be recovered as if they were arrears of land-revenue.

15. The publication ordered by the Council has taken place; but the Bill has been so much altered that we think that it should be republished, with this report, in the *Gazette of India* and in the local Gazettes.

W. MUIR.
R. H. DAVIES.
A. HOBHOUSE.
JOHN INGLIS.
T. C. HOPE.
F. R. COCKERELL.

SIMLA;
26th June 1876.

No. II.

THE OPIUM BILL, 1876.

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SCHEDULE.

A Bill to amend the law relating to Opium.

Preamble. Whereas it is expedient to amend the law relating to opium; It is hereby enacted as follows :—

Short title. **1.** This Act may be called "The Opium Act, 1876";

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of January 1877.

Repeal of enactments. **2.** The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. And in Acts No. XI of 1849, No. XXI of 1856 and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

Amendment of Act VII of 1836, s. 1. The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

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

"Opium." "Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy;

"Magistrate." "Magistrate" means in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class.

Import of opium. **4.** No opium shall be imported, by land or by sea, into any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or a Local Government; or

(*b*) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875,

or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(*c*) such import is permitted under the power next hereinafter conferred.

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the import of opium, or of any kind of opium, by land into any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Export of opium.

5. No opium shall be exported by land or by sea from any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government; or

(*b*) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(*c*) such export is permitted under the power next hereinafter conferred:

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the export of opium by land or by sea from any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Customs laws applied to opium.

6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

Warehousing opium.

7. The Governor General in Council may, by order notified in the *Gazette of India*, authorize any Local Government to establish warehouses for opium legally imported into or intended to be exported from the territories subject to such Local Government, and may cancel any such order.

So long as such order remains in force, the Local Government may declare, by notification published in the official Gazette, any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence.

On and after such publication the owner of all such opium shall be bound to deposit it in such warehouse.

Power to make rules as to poppy-cultivation, opium, &c.

8. The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

(*a*) the cultivation of the poppy;

(*b*) the manufacture of opium;

(*c*) the possession of opium;

(*d*) the transport of opium from one place to another within British India;

(*e*) the importation or exportation of opium into or out of British India;

(*f*) the sale of opium;

and to regulate within the whole or any specified part of such territories all or any of the matters aforesaid, and also

(*g*) the safe custody of opium warehoused under section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(*h*) the disposal of all things confiscated under this Act;

(*i*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor General in Council, and on receiving such sanction, shall be published in the local official Gazette, and shall thereupon have the force of law.

Prohibition of poppy-cultivation and possession, &c., of opium.

9. Unless in accordance with this Act or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

(*a*) cultivate the poppy;

(*b*) manufacture opium;

(*c*) possess opium;

(*d*) transport opium from one place to another within British India;

(*e*) import or export opium into or out of British India; or

(*f*) sell opium.

Penalty for illegal cultivation of poppy, &c.

10. Whoever in contravention of this Act, or of rules made and published under section eight,

(*a*) cultivates the poppy, or

(*b*) manufactures opium, or

(*c*) possesses opium, or

(*d*) omits to warehouse opium when bound to do so under section seven, or

(*e*) transports opium from one place to another within British India, or

(*f*) imports or exports opium into or out of British India, or

(*g*) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magtisrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned

in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

Presumption as to opium.

11. In prosecutions under section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation of opium.

12. In any case in which an offence under section ten has been committed—

(*a*) the poppy so cultivated,

(*b*) the opium in respect of which any offence under the same section has been committed,

(*c*) where, in the case of an offence under clause (*e*) or (*f*) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting,

(*d*) where, in the case of an offence under clause (*g*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and

(*e*) the vessels, packages and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it,

shall be liable to confiscation.

Order of confiscation by whom to be made.

13. When the offender is convicted, such confiscation may be ordered by the convicting Magistrate.

When an offence against this Act has been committed, but the offender is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

(*a*) enter into any such building, vessel or place,

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry,

(*c*) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(*d*) detain and search, and if he think proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Power to seize opium found in open place and arrest possessor.

15. If any officer of any of the said departments find

(*a*) any person in any open place whom he has reason to believe to be carrying any opium, or

(*b*) any person having in any open place any opium in his possession, or

(*c*) any opium in transit,

and such officer has reason to believe that the opium mentioned in clause *a*, clause *b*, or clause *c* of this section is opium in respect of which an offence has been committed, or which is liable to confiscation under this Act or any other law relating to opium for the time being in force,

he may stop and detain such person,

and may seize such opium and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium,

and may arrest such person, if opium be found in his possession, and any other persons in his company.

Searches how made.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers to assist each other.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Vexatious entries, searches, seizures and arrests.

18. Any officer of any of the said departments who without reasonable ground of suspicion enters, or searches, or causes to be entered or searched any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

Issue of warrants.

19. The Collector of the District, Deputy Commissioner or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom

he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

Disposal of person arrested or thing seized.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

Report of arrests and seizures.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his official superior.

Procedure in case of illegal poppy-cultivation.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that wherever Act No. XIII of 1857 *(An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal)* or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

Recovery of arrears of taxes and opium-revenue.

23. Any arrear of tax, fee or duty due under this Act or under any rule duly made under section eight,

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

SCHEDULE.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849.	Abkárí Revenue of Calcutta	In section 5, the word "opium." In section 6, the word "opium" and the last thirty-one words.
		In section 15, from and including the words "except in the case" to the end of the section. In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."
Act III of 1852.	Spirituous liquors, Bombay...	Section 10, so far as it relates to opium.
Act XXI of 1856.	Bengal Abkárí Act ...	In section 28, the word "opium." Sections 34, 51, 52, 53 and 87. In section 35, the words "or opium." In section 49, the words "except opium." Section 59, so far as it relates to opium. In section 75, the words "except opium" and from and including the words "opium seized" down to the end. In section 76, from and including the words "except opium" down to and including the words "each seer," and from and including the words "or, in" down to and including the words "each seer." In paragraph 8 of section 90, the words "and opium."
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	Section 2.

Number and year.	Subject.	Extent of repeal.
Act X of 1871.	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium." Sections 18, 65, 66, 67 and 87. In section 19, the words "or opium." Section 46, so far as it relates to opium. In section 46, paragraph 3 from and including the words "as well as" down to and including the words "dealings in opium." In section 63, the words "except opium." In section 78, the words "except opium," and paragraph 2. In section 79, from and including the words "except opium" down to and including the words "each ser" and from and including the words "or in" down to and including the words "each ser."
Act IV of 1872.	The Panjáb Laws Act ...	Section 49.
Act XXVI of 1872.	Panjáb Opium Law Amendment.	The whole Act.
Act VI of 1873.	Transhipment of goods ...	Section 7.
Act XVI of 1875.	The Indian Tariff Act ...	Section 9.

BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bom. Reg. XXI of 1827.	Duty on opium	The preamble from and including the words "with the combined" down to and including the words "be prohibited." Chapters I, II, III and IV.
Bom. Reg. XX of 1890.	Malwa opium	So much as has not been repealed.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 22, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(Third Publication.)

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th July 1876 :—

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to Opium was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Note by the Hon'ble Sir W. Muir, dated 2nd September 1875.
Despatch from Secretary of State, No. 43, dated 31st August 1875.
From Chief Commissioner, Oudh, No. 3478, dated 27th September 1875.
„ Secretary to Government, North-Western Provinces, No. 152A, dated 4th October 1875.
„ Chief Commissioner, Assam, No. 3464, dated 28th September 1875.
„ Officiating Secretary to Chief Commissioner, Central Provinces, No. 3787-165, dated 21st October 1875, and enclosure.
„ Secretary to Government, Panjáb, No. 2186, dated 29th October 1875.
„ „ „ Bengal, No. 2643, dated 10th November 1875.
„ Chief Commissioner, British Burma, No. 1933-400, dated 14th November 1875.
Endorsement, Financial Department, No. 2974, dated 14th December 1875, forwarding despatch from Secretary of State, No. 46, dated 21st October 1875.
From Officiating Secretary to Chief Commissioner, Mysore, No. 7836-6J, dated 18th January 1876.
„ Government of Madras, No. 6, dated 24th January 1876.
„ „ Bombay, No. 1498, dated 8th March 1876, and enclosures.
Suggestions by J. R. Naylor, Esq.
Demi-official from Collector of Salt Revenue, Bombay, dated 27th March 1876.
From Acting Commissioner of Customs, Bombay, No. 1540, dated 30th July 1874, and enclosures.
Extract from the Proceedings of the Government of Bombay, No. 5448, dated 14th October 1874.
Extract from the Proceedings of the Government of Bombay, No. 119, dated 9th January 1875.
From Acting Chief Secretary to the Government of Bombay, No. 3330, dated 6th June 1876.

2. We think that the proposed Act should come into force throughout British India on 1st January 1877.

3. Act No. VII of 1836 declared that the legality of acts done under the two Bombay Regulations which the Bill proposes to repeal, should not be questioned in any Court of law. That Act was repealed by Act VIII of 1868, but not so as to restore the jurisdiction thus withdrawn. We have endeavoured to maintain the present state of affairs by declaring that the reference made in Act No. VII of 1836 to those Regulations shall be read as if made to the corresponding provisions of the Bill.

4. We have defined "opium" so as to include poppy-heads and all intoxicating drugs prepared from the poppy, and "Magistrate" so as to confine criminal jurisdiction under the proposed Act to Presidency Magistrates and (in the Mofussil) Magistrates of the first class.

5. We have repealed and consolidated all extant enactments relating to opium, except the local and departmental rules contained in sections 3 to 31 of Act XIII of 1857. The Bill, accordingly, now not merely authorizes the Local Government to make rules as to poppy-cultivation and the possession, transport and sale of opium, it also provides rules as to the import, export and warehousing of opium; and it empowers the Local Government, with the previous sanction of the Governor General in Council, to prohibit or permit poppy-cultivation and the manufacture, possession, transport, import, export, or sale of opium, to make rules as to the manufacture, import, or export of opium, as to its safe custody and removal when warehoused, as to the disposal of things confiscated under the proposed Act, and as to rewards to officers and informers.

6. The penalties incurred for contravening the proposed Act, or any rule made thereunder, are a year's imprisonment, fine for Rs. 1,000, or both; and where a fine is imposed, we have required (in accordance with Bombay Regulation XXI of 1827, section 7) the convicting Magistrate to direct the offender to be imprisoned in default of payment for a term which may extend to six months.

7. We have extended the power of confiscation to the whole of the opium which an offender against the rules as to transport, import or export, is transporting, importing or exporting, as the case may be; and, when the offence is against the rules as to sale, to the whole of the opium in the offender's possession.

8. We have declared that, in prosecutions under the proposed Act, all opium for which the accused is unable satisfactorily to account shall be presumed to be opium in respect of which an offence has been committed.

9. When an offender against the Act is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, we have provided for an enquiry and confiscation by the Collector of the district, or other proper officer.

10. We have empowered any duly authorized officer of any of the departments of Excise Police, Customs, Salt, Opium or Revenue, superior in rank to a Peon or Constable, on receiving written information that opium is unlawfully kept in an enclosed place, to enter, seize and arrest; and we have empowered any officer of any of those departments to seize opium carried in an open place, which he has reason to believe liable to confiscation, and to arrest the person carrying it. We have required these officers to assist each other.

11. We have provided for the issue of warrants for arrest or search, and for the disposal of persons arrested and things seized.

12. We have provided a penalty for vexatious searches, seizures and arrests under the proposed Act, and we think that every officer making an arrest or seizure should within forty-eight hours report the particulars to his official superior.

13. We have also provided, in places where Act XIII of 1857 is not in force, for the attachment of a poppy-crop alleged to be illegally cultivated.

14. Lastly, we have declared that arrears of taxes, &c., due under the proposed Act or rules, and arrears due from farmers of opium-revenue, may be recovered as if they were arrears of land-revenue.

15. The publication ordered by the Council has taken place; but the Bill has been so much altered that we think that it should be republished, with this report, in the *Gazette of India* and in the local Gazettes.

W. MUIR.

R. H. DAVIES.

A. HOBHOUSE.

JOHN INGLIS.

T. C. HOPE.

F. R. COCKERELL.

SIMLA;
26th *June* 1876.

No. II.

THE OPIUM BILL, 1876.

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SCHEDULE.

A Bill to amend the law relating to Opium.

Preamble. Whereas it is expedient to amend the law relating to opium; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Opium Act, 1876":

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of January 1877.

Repeal of enactments. 2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. And in Acts No. XI of 1849, No. XXI of 1856 and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

Amendment of Act VII of 1836, s. 1. The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

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

"Opium." "Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

"Magistrate." "Magistrate" means in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class.

Import of opium. 4. No opium shall be imported, by land or by sea, into any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or a Local Government; or

(*b*) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(*c*) such import is permitted under the power next hereinafter conferred.

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the import of opium, or of any kind of opium, by land into any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Export of opium. 5. No opium shall be exported by land or by sea from any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government; or

(*b*) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(*c*) such export is permitted under the power next hereinafter conferred:

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the export of opium by land or by sea from any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Customs laws applied to opium. 6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

7. The Governor General in Council may, by order notified in the *Gazette of India*, authorize any Local Government to establish warehouses for opium legally imported into or intended to be exported from the territories subject to such Local Government, and may cancel any such order.

Warehousing opium.

So long as such order remains in force, the Local Government may declare, by notification published in the official Gazette, any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence.

On and after such publication the owner of all such opium shall be bound to deposit it in such warehouse.

8. The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

Power to make rules as to poppy-cultivation, opium, &c.

(*a*) the cultivation of the poppy;

(*b*) the manufacture of opium;

(*c*) the possession of opium;

(*d*) the transport of opium from one place to another within British India;

(*e*) the importation or exportation of opium into or out of British India;

(*f*) the sale of opium;

and to regulate within the whole or any specified part of such territories all or any of the matters aforesaid, and also

(*g*) the safe custody of opium warehoused under section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(*h*) the disposal of all things confiscated under this Act;

(*i*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor General in Council, and on receiving such sanction, shall be published in the local official Gazette, and shall thereupon have the force of law.

9. Unless in accordance with this Act or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

Prohibition of poppy-cultivation and possession, &c., of opium.

(*a*) cultivate the poppy;

(*b*) manufacture opium;

(*c*) possess opium;

(*d*) transport opium from one place to another within British India;

(*e*) import or export opium into or out of British India; or

(*f*) sell opium.

10. Whoever in contravention of this Act, or of rules made and published under section eight,

Penalty for illegal cultivation of poppy, &c.

(*a*) cultivates the poppy, or

(*b*) manufactures opium, or

(*c*) possesses opium, or

(*d*) omits to warehouse opium when bound to do so under section seven, or

(*e*) transports opium from one place to another within British India, or

(*f*) imports or exports opium into or out of British India, or

(*g*) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magtisrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

11. In prosecutions under section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Presumption as to opium.

12. In any case in which an offence under section ten has been committed—

Confiscation of opium.

(*a*) the poppy so cultivated,

(*b*) the opium in respect of which any offence under the same section has been committed,

(*c*) where, in the case of an offence under clause (*e*) or (*f*) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting,

(*d*) where, in the case of an offence under clause (*g*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and

(*e*) the vessels, packages and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it,

shall be liable to confiscation.

13. When the offender is convicted, such confiscation may be ordered by the convicting Magistrate.

Order of confiscation by whom to be made.

When an offence against this Act has been committed, but the offender is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily

accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

(*a*) enter into any such building, vessel or place,

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry,

(*c*) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(*d*) detain and search, and if he think proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

15. If any officer of any of the said departments find

Power to seize opium found in open place and arrest possessor.

(*a*) any person in any open place whom he has reason to believe to be carrying any opium, or

(*b*) any person having in any open place any opium in his possession, or

(*c*) any opium in transit,

and such officer has reason to believe that the opium mentioned in clause *a*, clause *b*, or clause *c* of this section is opium in respect of which an offence has been committed, or which is liable to confiscation under this Act or any other law relating to opium for the time being in force,

he may stop and detain such person,

and may seize such opium and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium,

and may arrest such person, if opium be found in his possession, and any other persons in his company.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers to assist each other.

18. Any officer of any of the said departments who without reasonable ground of suspicion enters, or searches, or causes to be entered or searched any building, vessel or place,

Vexatious entries, searches, seizures and arrests.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

19. The Collector of the District, Deputy Commissioner or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

Issue of warrants.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Disposal of person arrested or thing seized.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his official superior.

Report of arrests and seizures.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail.

Procedure in case of illegal poppy-cultivation.

Provided that wherever Act No. XIII of 1857 *(An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal)* or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

Recovery of arrears of taxes and opium-revenue.

23. Any arrear of tax, fee or duty due under this Act or under any rule duly made under section eight,

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

SCHEDULE.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849.	Abkárí Revenue of Calcutta	In section 5, the word "opium." In section 6, the word "opium" and the last thirty-one words. In section 15, from and including the words "except in the case" to the end of the section. In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer." In section 75, the words "except opium" and from and including the words "opium seized" down to the end. In section 76, from and including the words "except opium" down to and including the words "each seer," and from and including the words "or, in" down to and including the words "each seer." In paragraph 8 of section 90, the words "and opium."
Act III of 1852.	Spirituous liquors, Bombay...	Section 10, so far as it relates to opium.
Act XXI of 1856.	Bengal Abkárí Act ...	In section 28, the word "opium." Sections 34, 51, 52, 53 and 87. In section 35, the words "or opium." In section 49, the words "except opium." Section 59, so far as it relates to opium.
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	Section 2.
Act X of 1871.	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium." Sections 18, 65, 66, 67 and 87. In section 19, the words "or opium." Section 46, so far as it relates to opium. In section 46, paragraph 3 from and including the words "as well as" down to and including the words "dealings in opium." In section 63, the words "except opium." In section 78, the words "except opium," and paragraph 2. In section 79, from and including the words "except opium" down to and including the words "each ser" and from and including the

Number and year.	Subject.	Extent of repeal.
		words "or in" down to and including the words "each ser."
Act IV of 1872.	The Panjáb Laws Act ...	Section 49.
Act XXVI of 1872.	Panjáb Opium Law Amendment.	The whole Act.
Act VI of 1873.	Transhipment of goods ...	Section 7.
Act XVI of 1875.	The Indian Tariff Act ...	Section 9.

BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bom. Reg. XXI of 1827.	Duty on opium	The preamble from and including the words "with the combined" down to and including the words "be prohibited." Chapters I, II, III and IV.
Bom. Reg. XX of 1830.	Malwa opium	So much as has not been repealed.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 29, 1876.

☛ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th July 1876 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate and define the law relating to Land-Revenue in Oudh was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Endorsement, Department of Revenue, Agriculture and Commerce, No. 900 $\frac{L.R.}{8}$, dated 19th September 1872, forwarding—

Letter from Personal Assistant to Chief Commissioner, Oudh, No. 2779, dated 5th August 1872, and enclosures.

From Officiating Personal Assistant to Chief Commissioner, Oudh, No. 82, dated 10th January 1873, and enclosures.

From Officiating Secretary to Chief Commissioner, Oudh, No. 5208, dated 10th November 1875, and enclosures.

„ ditto ditto ditto, No. 5686, dated 14th December 1875, and enclosures.

„ ditto ditto ditto, No. 1850, dated 20th April 1876, and enclosures.

„ ditto ditto ditto, No. 1962, dated 28th April 1876, and enclosures.

Note by Hon'ble J. F. D. Inglis, dated 20th June 1876.

„ by Chief Commissioner, Oudh, dated 5th June 1876, and enclosures.

Office Memorandum from Department of Revenue, Agriculture and Commerce, No. 503, dated 11th July 1876, and enclosure.

Preliminary.

2. We have omitted as unnecessary the definitions of 'Chief Commissioner' and 'Estate,' and replaced them by definitions of 'incumbrance,' 'agricultural year,' 'revenue officer' and 'revenue-free.'

Revenue Officers.

3. In Chapter II relating to Revenue-officers, we have made the following changes: For sections 2, 3 and 4 of the Bill as introduced, we have substituted a section (4) declaring that, subject to rules prescribed by the Governor General in Council, the Chief Commissioner shall appoint Commissioners, Deputy Commissioners and Assistant Commissioners. We have authorized the Chief Commissioner to place any Assistant Commissioner of the first class in charge of one or more subdivisions, and to delegate this power to the Deputy Commissioner of the district. We have also empowered the Chief Commissioner, subject to rules prescribed by the Governor General in Council, to invest

any Assistant Commissioner in charge of a subdivision with the powers of a Deputy Commissioner. We think that Deputy Commissioners of the district and Assistant Commissioners in charge of subdivisions should be empowered to transfer cases to, and withdraw cases from, their subordinates, and we have introduced a section (10) for this purpose. We have provided (section 11) for the administration of a district in case of a temporary vacancy in the office of the Deputy Commissioner. We have, lastly, copied from Act XIX of 1873 the useful provision, that when an officer invested with powers in one district is transferred to an equal or higher office in another district, he shall be held to have the same powers in the latter district.

Settlement.

4. Section 14 of the Bill as introduced specified the documents of which the settlement record is to consist. We think it preferable merely to provide that the Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what those documents shall be.

5. We have declared (section 18) that every settlement shall be deemed to be in progress until its closing is duly notified, and that all districts in which settlements are now in progress shall be deemed to be under settlement for the purpose of that section.

6. We have transferred from the Oudh Civil Courts Act (XXXII of 1871) a section (20) empowering the Chief Commissioner to invest Settlement Officers with the powers of Civil Courts in suits relating to revenue-paying land.

7. We have declared (section 26) that in case of a taluqdárí mahál the settlement shall be made with the taluqdár.

8. We have provided (section 31) for the enforcement of the custom of periodical redistribution of land and adjustment of revenue.

9. We have expanded the provisions contained in the Bill as introduced, as to the exclusion of a taluqdár or proprietor refusing to accept settlement. We have provided (section 32) that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council; and we have raised the amount of the allowance to excluded proprietors.

10. We have directed (section 40) the Settlement Officer to determine the rent to be paid to the proprietor by under-proprietors and by holders of heritable, non-transferable leases, (other than tenants with right of occupancy,) whose rent has not been fixed by contract; and we have declared that whenever rent payable by such under-proprietors or lessees has been determined by a Settlement Officer, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

11. We have declared that all land shall be deemed liable to be charged with payment of revenue, and that no length of occupancy shall discharge such liability.

12. We have provided (section 46) for the alteration of assessment during the currency of a settlement, and (section 47) for the assessment of land added by alluvion. We have provided in the case of such land for the increase of a fixed rent in proportion to the increase of revenue effected by the assessment. Where the revenue assessed on a mahál has been reduced, remitted or suspended, we have declared (section 49) that the under-proprietor shall be entitled to a corresponding reduction, remission or suspension.

13. We have declared, in conformity with Regulation XIX of 1793 and other Regulations of the Bengal Code, that rent-free grants made by proprietors or the persons through whom they claim shall be liable to resumption except when such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner; but we have required proprietors wishing to resume such grants to apply to the Civil Court for a declaration of the right to resume, and we have exempted, wholly or partially, from the operation of these provisions, (*a*) land which the grantor has expressly agreed not to resume, (*b*) land held rent-free under a judicial decision, and (*c*) land held rent-free and acquired before the passing of the proposed Act, where the right to resume has been barred by the law of limitation. We have also provided (section 56) for fixing the rent of land declared liable to resumption.

Registration and the Revenue record.

14. We have provided (section 57), with more particularity than was thought necessary, for the lists and registers of rights in land to be prepared and maintained by the Deputy Commissioner on the basis of the settlement record. And we have declared that all entries in such lists or registers shall be made with reference to actual possession, and that all persons in possession, but claiming the right to be so, shall be referred to the Civil Court.

15. We have required (section 62) all persons obtaining possession of land as proprietors, under-proprietors, lessees whose rents have been fixed by a Settlement Officer, or [illegible] to give notice to the Tahsíldár or the Deputy Commissioner. And where the Deputy Commissioner cannot satisfy himself as to which party is in possession of any such land, we have required him to ascertain the fact by summary enquiry.

Partition and Union of Mahals.

16. We have inserted a chapter (V) dealing with the partition and union of mahals, which is founded on Act XIX of 1863—the law on this subject now in force in Oudh; but we have endeavoured to simplify the provisions of that Act. We have given an appeal within one year from the decision of the Deputy Commissioner confirming a partition. We have added definitions of 'perfect partition' and 'imperfect partition'. We have allowed any co-sharer to claim an imperfect partition, provided that the consent of recorded co-sharers holding in the aggregate more than a moiety of the property has been first obtained. We have provided for the partition of taluqdárí and under-proprietary mahals and of mahals held by lessees whose rent has been fixed by a Settlement Officer, subject to rules made by the Chief Commissioner as to when such partitions shall or shall not be permitted. In the case of the partition of a taluqdárí mahál, we have provided (section 101) for the assignment or partitioning of the inferior mahals and for duly limiting the joint responsibility of the co-sharers.

17. When the partition of a mahál in respect of which rent is payable is effected, we have directed the Deputy Commissioner to fix the amount payable in respect of each portion, and we have empowered the person entitled to such rent to obtain a decision as to his objections (if any) to the distribution of the rental.

Maintenance of Boundaries.

18. We have inserted a chapter (VI) on the maintenance of boundaries, the provisions of which correspond with those of Act I of 1847 and of sections 140—144 of Act XIX of 1873.

Collection of Land-Revenue.

19. In the chapter (VII) relating to the collection of land-revenue, we have made no substantial change, except that we have declared (section 117) that no person exempted from personal attendance in the Civil Court, no taluqdár and no female shall be subject to arrest or imprisonment, and we have provided that the Deputy Commissioner may realize as arrears of revenue all arrears of rent, due by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, in respect of land attached, or of which the settlement has been annulled.

20. We have inserted a section (135=section 28 of Act I of 1845) empowering the Chief Commissioner to direct a sale of land for arrears of revenue to be made subject to incumbrances.

21. We have provided (section 140) that such sales must be made either by the Deputy Commissioner or by an Assistant Commissioner specially appointed by him.

22. We have by section 159 entitled the proprietor of a mahál or pattí held in sub-settlement, or under a heritable, non-transferable lease, the rent payable under which has been fixed by a Settlement Officer, to apply to the Deputy Commissioner to realize the arrears of such rent as arrears of revenue.

Court of Wards.

23. We have transferred from the Oudh Laws Bill the chapter relating to the Court of Wards. In so doing we have extended the section relating to disqualified persons so as to apply to females deemed by the Chief Commissioner incompetent to manage their estates, to persons physically incapable of managing them, to persons convicted of non-bailable offences, and disqualified by vice or bad character from managing their estates, and lastly, to persons declared by the Chief Commissioner on their own application to be disqualified. We have also declared (section 174) that persons whose property is under the superintendence of the Court of Wards, shall be incompetent, without the sanction of the Court, to create charges upon such property. We have provided for suits by and against disqualified proprietors, and we have inserted rules relating to managers equivalent to those contained in Act XIX of 1873, section 206. Lastly, we have, in section 177, amended Act XL of 1858 so as to render it applicable to all mahals, whether assessed to revenue or held revenue-free.

Powers of Officers.

24. Chapter IX is new. It deals with the powers of Assistant Commissioners, Settlement Officers and Assistant Settlement Officers, and is to some extent founded on sections 234 and 235 of Act XIX of 1873.

Appeals. Arbitration.

25. Chapter X deals with appeals, and Chapter XI with references to arbitration. Both are new. The latter is to a large extent taken from Act XIX of 1873.

Patwáris.

26. In section 208 it is provided that the Chief Commissioner may make rules respecting the appointment of Patwáris. This is not intended to preclude the free discussion of the claim of the taluqdárs to make such appointments, which is still under the consideration of the local authorities.

27. The publication directed by the Rules for the conduct of legislative business has taken place; but the Bill has been so altered that we think it should be re-published, with this report, in the *Gazette of India*, and also in the local Gazette, and that its further consideration should be stayed for two months.

JOHN INGLIS.
R. H. DAVIES.
A. HOBHOUSE.
E. C. BAYLEY.
T. C. HOPE.
F. R. COCKERELL.

SIMLA:
The 22nd July 1876.

No. II.

THE OUDH LAND REVENUE BILL, 1876.

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204. Place for holding Court.
205. Power to summon persons to give evidence and produce documents.
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207. Matters excepted from cognizance of Civil Courts.
208. Power to make rules for purposes of Act.
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A Bill to consolidate and define the law relating to Land Revenue in Oudh.

Preamble. Whereas it is expedient to consolidate and define the law relating to land-revenue in Oudh; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Act may be called "The Oudh Land Revenue Act, 1876":

Local extent. It extends only to the territories now under the administration of the Chief Commissioner of Oudh;

Commencement. And it shall come into force on the passing thereof.

But all rules now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, continue in force until they are superseded by rules made in exercise of the powers hereinafter conferred.

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

"Incumbrance." (1) "incumbrance" means a charge upon or claim against land arising out of contract between private persons:

"Agricultural year." (2) "agricultural year" means a year commencing on the first day of July and ending on the thirtieth day of June:

"Revenue officer." (3) "revenue officer" means any officer empowered to dispose of any matter under this Act:

"Revenue-free." "Free of revenue." (4) "revenue-free" or "free of revenue" applies to land whereof the revenue has been wholly or in part released, compounded for, redeemed or assigned.

CHAPTER II.

REVENUE OFFICERS.

Chief Controlling Revenue Authority in revenue matters. **3.** The Chief Controlling Revenue Authority in all matters connected with land-revenue in Oudh shall be the Chief Commissioner.

Commissioners of Division. **4.** Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner shall—

(*a*) appoint in each Division a Commissioner, who shall, subject to the control of the Chief Commissioner, exercise authority over all the Revenue Officers in his Division:

Deputy Commissioner of the District. (*b*) appoint in each district an officer who shall be the Deputy Commissioner of the District:

Assistant Commissioner. (*c*) appoint to each district as many other persons as he thinks fit to be Assistant Commissioners of the first or of the second class.

Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner may suspend or remove any officer appointed under this section.

Subordination of Assistant Commissioners and other Revenue Officers.

5. All such Assistant Commissioners, and all other persons employed in maintaining revenue-records or otherwise in or about the business of the land-revenue, shall be subordinate to the Deputy Commissioner of the District.

Assistant Commissioner in charge of Sub-division of District.

6. The Chief Commissioner may place any Assistant Commissioner of the first class in charge of one or more Sub-divisions of a District, and may at any time remove him therefrom.

Such Assistant Commissioner shall be called an Assistant Commissioner in charge of a Sub-division of a District, and shall exercise the powers and discharge the duties conferred and imposed upon him by this Act or by any other law for the time being in force, subject to the control of the Deputy Commissioner of the District.

The Chief Commissioner may, from time to time, delegate his powers under this section to the Deputy Commissioner of the District, and may revoke such delegation.

Power to invest certain Assistant Commissioners with powers of Deputy Commissioner.

7. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer on any Assistant Commissioner in charge of a Sub-division of a District all or any of the powers of a Deputy Commissioner; and all powers so conferred shall be exercised subject to the control of the Deputy Commissioner of the District.

Subordination of Revenue Officers.

8. Every officer of a Sub-division of a District employed in maintaining revenue-records or otherwise in or about the business of the land-revenue shall be subordinate to the Assistant Commissioner (if any) in charge of such Sub-division, subject to the general control of the Deputy Commissioner of the District.

Conferring of powers.

9. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer upon any person all or any of the powers of an Assistant Commissioner of the first or of the second class, and may, in conferring those or any other powers under this Act, empower persons by name, or classes of officials generally by their official titles, and may vary or cancel any order conferring powers under this Act.

Power to vary and cancel orders conferring powers.

Transfer of cases to subordinates.

10. The Deputy Commissioner of the District, or any Assistant Commissioner in charge of a Sub-division of a District, may make over any case, or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision, from his own file to any of his subordinates competent to deal with such case or class,

or may withdraw any such case, or class of cases from any Revenue Officer subordinate to him, and may deal with such case or class himself, or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Power to withdraw cases from subordinates.

Deputy Commissioner of the District in case of temporary vacancy.

11. If the Deputy Commissioner of the District dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the District in revenue matters shall be held to be the Deputy Commissioner of the District under this Act until the Chief Commissioner appoints a successor to the Deputy Commissioner so dying or disabled, and such successor takes charge of his appointment.

Powers of officers transferred to another district.

12. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers in the District to which he is so transferred.

Appointment of Tahsíldárs.

13. Tahsíldárs shall be appointed by the Chief Commissioner, subject to such rules as to qualification or otherwise as the Chief Commissioner may from time to time make under section 208.

CHAPTER III.

SETTLEMENT.

Notification as to settlement.

14. Whenever the Chief Commissioner thinks that any District or other local area liable to be brought under settlement should be so brought, he shall, with the previous sanction of the Governor General in Council, publish a notification to that effect.

Notification as to settlement record.

And if he thinks that a settlement record should be prepared for any District or other local area, he shall, with the like sanction, publish a notification to that effect.

Chief Commissioner to issue rules as to mode of assessment.

15. The Chief Commissioner shall, from time to time, with the previous sanction of the Governor General in Council, frame and issue rules regarding the mode in which the revenue demand in respect of any local area is to be assessed; and may from time to time make rules prescribing the manner in which Settlement Officers shall report for sanction the rates and method of assessment and the amounts they propose to assess.

Settlement record.

16. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what documents shall form the settlement-record, and frame and issue rules regarding (*a*) the mode in which such record is to be prepared, (*b*) the facts to be therein entered, and (*c*) the manner in which the entries shall be attested.

The Chief Commissioner may from time to time, with the same sanction, alter such rules.

Presumption as to entries in settlement record.

17. Every entry in such settlement record duly made and attested, shall, until the contrary is proved, be presumed to be a correct record of the fact entered.

Settlement to be deemed in progress until closing notified.

18. Every local area shall be held to be under settlement from the date of any notification published under section 14, and relating thereto, until the issue of another notification declaring settlement operations to be closed therein.

Every local area under settlement at the time of the passing of this Act shall be held to be under settlement within the meaning of this section without the issue of either of the notifications prescribed by section 14.

Settlements now in progress brought under operation of Act.

Appointment and powers of Settlement Officers.

19. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, appoint an officer to be in charge of the settlement of any local area and as many Assistant Settlement Officers as the Chief Commissioner thinks fit; and such officers shall exercise the powers conferred on them respectively under this Act so long as such area is under settlement.

Power to invest Settlement Officers with powers of Civil Courts in certain cases.

20. In any local area in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the previous sanction of the Governor General in Council, may by order confer on any officer making or controlling such settlement the powers of a Civil Court of any specified grade for the purpose of trying suits and appeals, or any specified class of suits and appeals, relating to property in land assessed or assessable to revenue, in such District, and may revoke any such order; and so long as such order remains in force the jurisdiction of the Civil Courts of the same grade shall be excluded in respect of such suits and appeals.

Power to transfer cases from Settlement Officers to Civil Courts.

21. Notwithstanding the existence of any such order, the Chief Commissioner may from time to time direct that any cases pending before the Settlement Officers invested with the powers mentioned in section nineteen, shall be transferred to the ordinary Civil Courts of the District if the state of business in his opinion requires such transfer.

Trial of suit relating to land and other property.

22. If a suit relating as well to such land as other property be instituted before any officer so invested, he shall make a reference regarding the disposal of such suit to the Commissioner of the Division in which the District wherein the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Powers of Settlement Officers as to erection of boundary-marks and decision of disputes.

23. When any local area is under settlement, the Settlement Officer shall have power to call upon all proprietors, by proclamation to be stuck up in some conspicuous place in each village, to erect within fifteen days such boundary-marks as he may think necessary to define the limits of their villages, maháls or fields; and in default of their compliance within the time specified in the notice, he may cause such boundary-marks to be erected, and he shall recover the cost of such erection from the proprietors as if it were an arrear of land-revenue.

In case of dispute concerning any boundary-marks, the Settlement Officer shall decide such dispute on the basis of possession, or may refer it to arbitration, for decision on the merits as provided for in sections 192 to 203, both inclusive.

Power of Settlement and Survey Officers to do necessary acts.

24. All Settlement Officers, and all officers in charge of a survey made in connection with the revenue, and their assistants, servants, agents and workmen, may do all acts necessary for any purpose connected with the settlement or survey, as the case may be.

Power to require attendance of persons concerned, and production of documents.

25. The Settlement Officer may order all persons whose presence is, in his opinion, necessary for any of the purpose of this chapter, to attend at any specified time and place, and to produce any written document in their possession or power; and all such persons shall be legally bound to obey such order.

With whom settlement to be made.

26. The settlement shall be made in the case of a taluqdárí mahál with the taluqdár, and in the case of other maháls with the proprietor of the mahál;

or if there are two classes of proprietors, superior and inferior, with either of such classes as the Chief Commissioner directs,

or if the taluqdár or proprietor has transferred possession of his mahál to a mortgagee or conditional vendee, then with such mortgagee or vendee.

Settlement of estate in possession of lunatic or minor.

If, at the time of settlement, a mahál, or any share thereof, be in the possession of a lunatic, minor or other person incapable of making a contract, the settlement shall be made on his behalf with his guardian or with the manager of his property.

Power to make joint settlement with several proprietors or their elected representatives.

27. When several persons are in possession of a mahál, not being a taluqdárí mahál, the Settlement Officer shall have power to make a joint settlement with all such persons, or with their representatives.

Framing and reporting general proposals of assessment.

28. The Settlement Officer shall, in accordance with the rules made under section fifteen, frame general proposals of assessment for any local area or any portion thereof regarding which a notification has been published under the first clause of section fourteen, and shall report such proposals through the Commissioner of the Division to the Chief Commissioner.

Detailed assessment and declaration thereof to persons concerned.

29. After the receipt of the orders of the Chief Commissioner thereon, and subject to such orders, the Settlement Officer shall ascertain the amount of the assessment proper for each mahál in such area, and shall declare the same to the person with whom the settlement of such mahál is to be made.

If any mahál in any such area comprise two or more villages, or portions of villages, the Settlement Officer shall declare the assessment due on each of such villages or portions of villages, together with the aggregate amount of the assessment proper in his opinion for the whole mahál.

Such declaration shall be made on a date to be notified by proclamation at the tahsíl in which such mahál is situate.

30. If the persons with whom the settlement of such mahál is to be made agree to the assessment so proposed, they and those (if any) whom they represent in interest shall become liable from the date of such agreement, or from such subsequent date as the Chief Commissioner directs, to pay such assessment in respect of such mahál.

Effect of agreement to assessment proposed.

and in a mahál in which the land, or part of the land is held in severalty, the Settlement Officer shall distribute such assessment on the lands so held.

Distribution of assessment.

31. In any mahál where, by the established custom, the land or the amount of revenue payable by each co-sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of one or more of the co-sharers, enforce such re-distribution or re-adjustment according to such custom.

Enforcement of custom as to re-distribution of land and adjustment of revenue of shares.

32. If the person to be settled with be a taluqdár and such taluqdár refuse to accept the assessment offered by the Settlement Officer in respect of his entire taluqá, or in respect of any portion thereof, or if, within thirty days from the date of the declaration by the Settlement Officer under section 29, such taluqdár fail to accept such assessment, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner.

Exclusion of taluqdár declining or failing to accept settlement.

The Chief Commissioner, after hearing and considering the reasons which the taluqdár may have to urge against the assessment, may direct that the taluqdár so refusing or failing be excluded from the settlement of his entire taluqá, or of any portion thereof, for such term not exceeding fifteen years from the date of such direction, as the Chief Commissioner shall fix; and the Settlement Officer or Deputy Commissioner shall either farm the taluqá or any portion thereof or hold it under direct management during such term, or any part thereof: provided that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council.

33. If a taluqdár be excluded from the settlement of any portion of his taluqá, and if such portion be held in sub-settlement by an under-proprietor, the farm of such portion shall be offered to such under-proprietor on such terms as the Chief Commissioner may in each case direct.

Offer of farm to under-proprietor.

34. If such under-proprietor accept the assessment so offered, the taluqdár so excluded shall be entitled to an allowance out of the profits of such portion to be fixed by the Chief Commissioner not exceeding the share of the gross assets, if any, to which he would have been entitled had he accepted the assessment.

Allowance to excluded taluqdár.

In other cases, the taluqdár so excluded shall (subject to the orders of the Chief Commissioner) be entitled to an allowance out of the profits of such portion of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

35. In a mahál other than a taluqdárí mahál, if the person to be settled with refuse to accept the assessment offered by the Settlement Officer, or fail to accept such assessment within thirty days from the date of the declaration by the Settlement Officer under section 29, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner,

Exclusion of person declining or failing to accept settlement in a mahál.

and the Chief Commissioner may direct that the person so refusing or failing be excluded from the settlement for such term not exceeding fifteen years from the date of such direction, as the Chief Commissioner thinks fit,

and the Settlement Officer or the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either farm the mahál or hold it under direct management during such term or any part thereof.

In such case the person so excluded shall be entitled (subject to the orders of the Chief Commissioner) to an allowance out of the profits of the mahál, of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

Allowance to person excluded.

36. If in a mahál held on a pattídárí or imperfect pattídárí tenure any of the co-sharers refuse or fail within thirty days from the date of the declaration by the Settlement Officer under section 29 to accept the proposed assessment, the shares of such co-sharers shall be dealt with under the provisions of section 35, and they shall receive an allowance, as provided in that section, in proportion to their respective shares in the mahál.

Procedure in case of some of several proprietors refusing assessment.

If the Settlement Officer farms any share in such mahál, the farm of such share shall be offered in the first instance to those co-sharers who have accepted the proposed terms.

Farm of shares of proprietors refusing.

37. Any proprietor excluded from settlement under sections 35 and 36 shall be entitled to hold as a tenant with a right of occupancy so much of the land in the mahál actually cultivated by him as the Settlement Officer may determine, and the rent to be paid by such proprietor for such land during such exclusion shall be fixed by the Settlement Officer at the rate which would have been paid by a tenant-at-will for the said land less four annas in the rupee.

Adjustment of rent of the sir land of proprietors of mahál farmed under section 35 or 36.

38. The aggregate amount of any allowance assigned under section 35 or section 36 to any proprietor of a mahál who has been excluded from settlement, and of the difference between the rent fixed under section 37, and the rent which he would be liable to pay if he were a tenant-at-will,

Amount of allowance assigned under section 35 or 36 to excluded proprietor, and of difference between rent fixed under section 37, and rent payable by him if he were a tenant-at-will.

shall not be less than five or more than fifteen per cent. on the amount proposed by the Settlement Officer to be assessed on such mahál.

39. On the expiration of the term fixed under section 32 or section 35, the settlement of such mahál portion, or share comprised therein shall be offered by the Deputy Commissioner to the person then entitled to be settled with in respect of such mahál portion or share, at such assessment for the remainder of the term of settlement of the District as the Chief Commissioner may direct.

Offer of settlement to excluded proprietor on expiry of term of exclusion.

And if such person refuse to accept the offer, the Deputy Commissioner shall report such refusal through the Commissioner of the Division to the Chief Commissioner, and such person may be excluded from settlement for such period not exceeding the term of the settlement of the District, as the Chief Commissioner may direct, and the provisions of sections 32 to 38 (both inclusive) shall, so far as may be applicable, apply to his case.

Procedure on refusal.

40. The Settlement Officer shall, in accordance with the provisions of the Oudh Sub-settlement Act, 1866, so far as they are applicable, determine the rent to be paid to the proprietor by all under-proprietors in a mahál and by all holders of heritable, non-transferable leases, whose rent has not been fixed by contract.

Determination of rent payable to proprietor.

When the rent is so determined the co-sharers may at their option agree with the Settlement Officer that the rent shall be paid either by them collectively or by one of them on behalf of himself and the others. Whenever, whether before or after the passing of this Act, rent payable by such under-proprietors or lessees has been determined by a Settlement Officer, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

Nothing in this section applies to rent payable by a tenant with a right of occupancy.

41. All land shall be deemed liable to be charged with the payment of revenue to Government, unless some competent authority has declared it exempt from such payment. And no length of occupancy of any land, nor any grant of land made by the proprietor, shall release such land from such liability.

Saving of liability for Government revenue.

42. The Settlement Officer shall enquire into the case of all lands released, conditionally or for a term, from the payment of revenue, and shall assess such lands if it appear to him that the conditions have been transgressed or the term has expired.

Inquiry into cases of land released from payment of revenue.

43. Every settlement shall be made subject to confirmation by the Governor General in Council.

Confirmation of settlement.

44. The Governor General in Council shall, at some time before confirming the settlement, fix the period for which the settlement is to be made. Such period shall be fixed with reference to the agricultural year.

Period for which settlement is to be made.

45. The assessment of any mahál may be revised at any time before it is confirmed by the Governor General in Council, and in such case the revised assessment shall be proposed to the proprietors of such mahál, and the provisions of sections 23 to 40 (both inclusive) shall apply.

Revision of assessment before confirmation.

Alteration of assessment during the currency of a Settlement.

46. The Deputy Commissioner shall enquire annually into the cases of all land released from the payment of revenue conditionally, or for a term, or for the life of the grantee.

Annual enquiry as to revenue-free grants.

If the condition be broken, he shall report the case through the Commissioner of the Division to the Chief Commissioner for orders,

and if the term has expired, or (where the grant is for the life of the grantee) if the grantee has died, the Deputy Commissioner shall assess the land comprised therein, and shall report his proceedings through the Commissioner of the Division to the Chief Commissioner for sanction.

47. All land added by alluvion to a mahál is liable to assessment. Such land may be assessed and settled under rules to be framed under section 208.

Assessment of land added by alluvion.

48. Where such land is held by an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such rent shall be increased proportionately to the increase of revenue effected by such assessment.

Proportionate increase of rent payable by under-proprietor.

49. Where for any cause the revenue assessed on a mahál has, by order of the Chief Commissioner, been reduced or been wholly or in part remitted or suspended, and the land on account of which the revenue has been so reduced, remitted or suspended is in the possession of an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such under-proprietor or lessee shall be entitled (where the revenue has been reduced or remitted) to a proportionate reduction or remission of the rent payable by him in respect of such land, or (where the revenue has been suspended) to a suspension of the payment of such rent for the time during which the revenue has been so suspended.

Proportionate reduction or remission of rent payable by under-proprietor or lessee.

50. Assessments under sections 46 and 47 shall be made by the Deputy Commissioner in the same manner and with the same powers as if he were an officer in charge of a settlement.

Deputy Commissioner to have powers of officer in charge of settlement.

51. At any time during the currency of a settlement, the Chief Commissioner may, with the previous sanction of the Governor General in Council, invest any officer with all or any of the powers of an officer in charge of a settlement under this Act within such limits, and with such restrictions, and for such period as he thinks fit;

Power to invest officer with Settlement Officer's powers.

but not so as to enable him to enhance the total amount of revenue payable on account of

mahál except in respect of land added thereto or becoming liable to payment of revenue since the confirmation of the settlement.

Resumption of rent-free grants.

52. All grants (whether in writing or otherwise) by proprietors or the persons whom they represent of land to be held exempt from the payment of rent are hereby declared to be liable to resumption, unless such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner.

Liability of rent-free grants to resumption.

53. Provided that grants of land held under a written instrument (whether executed before or after the passing of this Act) by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid against him (but not as against his representatives after his death) during the continuance of the settlement of the District in which the land is situate which was current at the date of the grant.

Grants under certain instruments.

54. Proprietors wishing to resume grants made by themselves or the persons whom they represent shall apply by petition to the principal Court of original civil jurisdiction of the District in which the land is situate for a declaration of the liability of the grant to resumption.

Application for declaration of such liability.

The Court shall cause notice of such application to be served on the grantee, and shall fix a day for hearing his objections (if any) to the declaration; and thereupon, after considering such objections (if any), may either dismiss the application with or without costs to be paid by the applicant, or declare that the grant is liable, in whole or in part, to resumption.

55. Nothing in section 52, section 53, or section 54 applies to either of the following cases:—

Exemptions from sections 52, 53 and 54.

(*a*) where land is held rent-free under a judicial decision;

(*b*) where previously to the passing of this Act, land held rent-free has been acquired for a valuable consideration and the right to resume it has been barred by the law of limitation.

56. The amount of rent payable in respect of land which has been declared by a Civil Court liable to resumption shall, when the district in which the land is situate is under settlement, be determined by the Settlement Officer and in every other case by the Deputy Commissioner of the District.

Rent of land declared liable to resumption.

CHAPTER IV.

REGISTRATION, INCLUDING THE PREPARATION AND MAINTENANCE OF REVENUE RECORDS.

57. The Deputy Commissioner of the District shall, on the basis of the settlement record, and in accordance with such rules as the Chief Commissioner from time to time prescribes in this behalf, prepare the following lists and registers:—

Lists and registers to be prepared by Deputy Commissioner.

(*a*) A list of all the villages in each pargana or tahsíl of his District;

The pargana register.

(*b*) A list of all the revenue-paying mahálsin each pargana or tahsíl, shewing the revenue assessed on each mahál, and the name of the person responsible for its payment whether as sole proprietor or as lambardár;

The málguzárí register.

(*c*) A register of all the co-sharers in each mahál with the nature and extent of the interest of each co-sharer;

The khewat.

(*d*) A register of all mahálsin which the rent of any under-proprietor or lessee has been fixed by the Settlement Officer, the names of all the co-sharers in such mahálsi, together with the nature and extent of the interest of such co-sharers.

Register of sub-settled mahálswith khewat.

(*e*) For each mahál a list—

Register of under-proprietary and other tenures.

(1) of all under-proprietors and lessees whose rent has been so fixed, and of all tenants with a right of occupancy, with the nature and extent of the interest of each such person, and the rent (if any) which he is liable to pay therefor,

(2) of all other persons (if any) holding land free of rent, or revenue free.

Register of revenue-free tenures.

(*f*) A register—

(1) of all land in his District held revenue free, with the names of the holders, and the conditions of the grant under which they hold,

(2) of all land declared by competent authority to be waqf or nazul, or the property of the State.

(*g*) A register of all mahálson which a málikána allowance has been sanctioned by competent authority, with the names of the persons entitled to such allowance, the amount of such allowance, and the conditions under which it was given.

The málikána register.

(*h*) A register of all jungle-grants, the names of the grantees, and the conditions of the grants.

Register of jungle-grants.

58. In the preparation of the said lists and registers, the Deputy Commissioner shall correct any errors in the settlement records which the parties interested admit to have been made therein; and any dispute arising regarding any entry in such record shall be investigated and decided on the basis of actual possession; and all persons not in possession, but claiming the right to be so, shall be referred to a Court of competent jurisdiction, except where the claim is founded on the decision of such Court, and in such case the entry shall be in accordance with such decision.

Correction of errors in settlement record.

59. The Deputy Commissioner shall keep and maintain the said lists and registers,

Deputy Commissioner to keep the lists and registers.

and he shall from time to time cause to be registered all events and transactions affecting any of the rights or interests recorded in the said registers, to such extent as the Chief Commissioner may from time to time prescribe.

60. The Chief Commissioner shall prescribe the forms in which the lists and registers mentioned in section 57 are to be prepared,

Forms of lists and registers.

and the manner in which, the persons by whom, and the occasions on which, the alterations referred to in section 58 and section 59 are to be recorded.

61. The Chief Commissioner may prescribe proper fees for alteration in the lists and registers formed under the said rules: Provided that no fee for a single alteration shall exceed one hundred rupees.

Power to prescribe fees for mutations.

Such fee shall be levied from the person in whose favour the mutation is made, and shall be expended in such manner as the Chief Commissioner thinks fit.

Levy of fees.

Fees how spent.

62. All persons obtaining the possession of land or the profits thereof, whether by succession, purchase or other form of transfer, as proprietors or under-proprietors, or as lessees whose rents have been fixed by a Settlement Officer, or as mortgagees, shall give notice of the same immediately after it has taken place to the tahsíldár of the tahsíl in which the mahál to which such land belongs is situated, or to the Deputy Commissioner of the District.

Notice of transfer of possession.

If the notification be made to the tahsíldár, that officer shall report such notice to the Deputy Commissioner.

63. The Deputy Commissioner on receiving such notice or report shall make such enquiry as the Chief Commissioner may from time to time prescribe to ascertain the fact of the alleged transfer of the property, and if the transfer appears to have taken place, he shall, subject to the rules framed by the Chief Commissioner under section 208, record the same in the appropriate register:

Enquiry as to truth of transfer.

Provided that no such entry shall be held to affect the rights of any other person who may claim and establish in any Court of competent jurisdiction any interest in the land to which the entry has reference.

64. If the person so succeeding is a minor or otherwise under disability, the guardian or other person who has charge of his property shall give the notice required by section 62.

Notification in case of minority or other disqualification.

65. Any person neglecting to give the notice prescribed in section 62 within three months from the date of the occurrence of the fact to be notified, shall be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section 61.

Time for neglect to notify.

66. If in the course of enquiry made under section 63, a dispute regarding the possession of the property arises, and the Deputy Commissioner is unable to satisfy himself as to which party is in possession, he shall ascertain by summary enquiry who is the person *primâ facie* entitled to the property and shall put such person in possession, and make the necessary entry in the record accordingly, subject to any order that may be subsequently passed by the Civil Court.

Power to put one party possession in certain cases of dispute.

67. When any person obtains possession of land or of the profits thereof, for any interest other than those referred to in section 62, the transfer of such possession shall be recorded by the Kánúngo and patwárí in such manner as the Chief Commissioner from time to time directs;

Registry of transfers of interests in land other than those referred to in section 62.

and all disputed cases shall be reported to the Deputy Commissioner or Assistant Commissioner, who shall make such enquiry as may be necessary to ascertain the fact of the alleged transfer, and cause the record to be amended accordingly.

Enquiry in disputed cases.

68. All registers prepared under the preceding sections of this chapter shall be deemed to be public documents and the property of Government, and shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Chief Commissioner may from time to time prescribe.

Inspection of registers.

CHAPTER V.

PARTITION AND UNION OF MAHALS.

69. Partition is either perfect or imperfect.

Partitions.

'Perfect partition' means the division of a mahál into two or more mahálsi, severally responsible for the revenue assessed on each.

'Perfect partition.'

'Imperfect partition' means the division of any mahál, or of any portion of a mahál, into two or more portions jointly responsible for the revenue assessed on the whole mahál.

'Imperfect partition.'

70. Any recorded co-sharer in a mahál and any person, in whose favour a decree has been passed by any Civil Court, awarding to him the proprietary right in a portion of a mahál, whether such portion consists of a fractional share in the whole or a part of the mahál, or of specific lands, is entitled to claim perfect partition of his share.

Persons entitled to perfect partition.

Any two or more recorded co-sharers may claim that their shares be divided from the other shares by a perfect partition, and be held by them as a single mahál.

If any recorded co-sharer be under disability, the person in possession of his property shall, for the purpose of this section, be deemed to be a recorded co-sharer.

71. Applications for perfect partition are to be made in writing to the Deputy Commissioner of the district in which the mahál is situated;

Application for perfect partition.

and shall be accompanied by a certified copy of the record, showing the share held by the applicant in the mahál:

Provided that, if the mahál be situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

Provision as to estates situated in more than one district.

72. The Deputy Commissioner, on receiving an application for partition shall, if the application be in order and not open to objection on the face of it, publish a notification of the same at his office, and at some conspicuous place in the mahál to which the application relates,

Notification of application.

and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection, either in person or by a duly authorized agent, on a day to be specified in the notice, not less that thirty, or more than sixty, days from the date on which such notice was issued.

Notice to co-sharers not joining.

73. Where, from any cause, notice cannot be personally served on any co-sharer, the notification so published shall be deemed sufficient notice.

Notification when alone sufficient.

74. If, on or before the day so specified, any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Power to refuse partition when objection admitted.

75. If the objection raises any question of title, or of proprietary right, which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or he may proceed to enquire into the merits of the objection.

Procedure if question of title be raised.

In the latter case the Deputy Commissioner after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of chapter VI (relative to arbitrators) of the same Code shall apply to such references.

Procedure in such cases.

Reference to arbitration.

76. All orders and decisions passed by the Deputy Commissioner under the last preceding section, for declaring the rights of parties, shall be held to be decisions of a Court of civil judicature of first instance, and shall be open to appeal under the provisions of the Oudh Civil Courts Act.

Deputy Commissioner's decision equivalent to decision of Civil Court.

Appeal thereupon.

Upon such appeal being made, the appellate Court may issue a precept to the Deputy Commissioner, desiring him to stay the partition, pending the decision of the appeal.

Appellate Court may stay partition.

77. When it has been decided to make a partition under this chapter, the Deputy Commissioner shall either give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he shall make the partition himself or cause it to be made by any Assistant Commissioner subordinate to him, and when made by an Assistant Commissioner, it shall be reported to the Deputy Commissioner for his confirmation.

Option to make partition themselves or to appoint arbitrators.

78. If arbitrators are appointed, the provisions of sections 192 to 203, both inclusive, shall apply.

Partition by arbitrators.

In making a partition, arbitrators shall not be bound by the provisions of sections 81 to 84 both inclusive; but they shall deliver a full and complete paper of partition, specifying the separate maháls into which they propose that the mahál shall be divided; the names of the parties to whom the several maháls are proposed to be allotted, and the amount of land revenue which in the opinion of the arbitrators should be assessed on each of such maháls.

79. In making partitions, the Deputy Commissioner, and any person appointed by him, shall have the same powers to enter on the land under partition, for marking out the boundaries, surveying the mahál, and other purposes, as are conferred on Settlement Officers under this Act.

Power to enter on land for purposes of partition.

80. When a Deputy Commissioner has decided that a partition shall be made, he may, with the sanction of the Commissioner, hold the mahál under direct management, pending the completion of the partition.

Power to hold mahál under direct management, pending partition.

The provisions of the law in force for the time being, for the management of maháls held under direct management for arrears of revenue shall be applicable to maháls, the management of which is assumed under this section.

The collections of the mahál shall be applied to the payment of the Government revenue, and, after defraying the expenses of management and any other expenses with which the mahál is chargeable, the residue shall be divided amongst the recorded co-sharers in proportion to their respective shares at such periods as the Deputy Commissioner may see fit.

81. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate mahál, and shall be separately assessed to the Government revenue.

Partition of lands held only in severalty.

82. Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of such lands in accordance with village custom, if any such exist.

Partition of lands some of which are held in common.

If no such custom exist, the Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

83. The portion of the common lands falling by such partition to the share of the applicant shall be added to the land held by him in severalty, and the maháls thus formed shall be assessed and declared separate maháls.

Formation of separate mahálas from shares allotted in partition.

84. In making partitions under this Act, the Deputy Commissioner shall give effect to any transfer of lands held in severalty and forming part of the mahál, which has been agreed to by the parties, previous to the declaration of the partition.

Transfers to be effectuated in making partition.

85. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the mahál.

Partition where all lands are held in common.

86. In all cases each mahál shall be made as compact as possible: Provided that, except with the sanction of the Chief Commissioner, no partition be disallowed solely on the ground of incompactness.

Estate to be compact.

87. If in making the partition it be necessary to include in the mahál assigned to one sharer, the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with the buildings thereon (if any) on condition of his paying a reasonable ground-rent therefor to the sharer into whose portion it may fall.

Rule when dwelling-house of one sharer is included in mahál assigned to another.

The limits of such land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

88. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Rule as to tanks, wells, water-courses and embankments.

Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the maháls into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each mahál may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works, shall be divided.

89. Places of worship and burial-grounds, held in common previous to the partition of a mahál, shall continue to be so held, unless the persons who so held them otherwise agree among themselves.

Rules as to places of worship and burial-grounds.

In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

90. In all cases whether partition has been made by arbitrators or otherwise, the amount of revenue to be paid in respect of each portion of a mahál partitioned under this chapter shall be determined by the Deputy Commissioner, provided that the aggregate revenue payable in respect of the new maháls shall not exceed the revenue assessed on the mahál immediately before partition;

Determination of revenue payable by each division of a mahál.

and the proprietor of each new mahál shall be held liable for the portion of the revenue assessed on his mahál, whether a new engagement be taken from him or not.

Liability of proprietors.

91. If at any stage of any proceedings under this chapter there appears to be any reason for stopping the partition, the Deputy Commissioner may of his own motion, or on the report of the Assistant Commissioner making the partition, stay the partition and order the proceedings to be quashed.

Power to stay partition.

92. A partition, whether made by the Deputy Commissioner himself or otherwise, shall not be deemed to be complete unless the Deputy Commissioner has made an order confirming it.

Order confirming partition.

On making such order, he shall publish a notification of the fact at his office and at some conspicuous place in each of the new maháls,

Notification of order.

and the partition shall take effect on and from the first day of July next after the date of such notification.

Partition when to take effect.

93. An appeal against the decision of the Deputy Commissioner confirming a partition, shall lie to the Commissioner of the division within one year from the date on which such partition takes effect.

Appeal to Commissioner from orders of Deputy Commissioner.

94. Where the land-revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the land-revenue upon the several maháls into which the mahál has been divided, on an estimate of the assets of each mahál at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

95. Imperfect partition shall be carried out according to the provisions of sections 70 to 93 (both inclusive) so far as they are applicable: Provided that no application for imperfect partition shall be entertained unless the consent of recorded co-sharers holding in the aggregate more than one moiety of the property of which partition is sought be first obtained.

Making of imperfect partitions.

96. No Civil Court shall entertain any suit or application for perfect or imperfect partition.

Civil Courts barred from entertaining applications for partitions.

97. All imperfect partitions and all partitions perfect or imperfect of under-proprietary maháls hitherto made, shall be deemed to have been made under the provisions of this Act.

Previous imperfect partitions and partitions of under-proprietary maháls.

98. If two or more revenue-paying mahâls have originally formed portions of the same village, the proprietor shall be entitled to have such mahâls united and to hold them as a single mahâl.

Union of mahâls originally part of same village.

99. Every application for the union of such mahâls shall be made in writing to the Deputy Commissioner of the district in which the mahâls are situate.

Application for such union.

If the Deputy Commissioner see no objection, he shall comply with the application, and cause the necessary entries to be made in the register of his office, reporting the case to the Commissioner of the division.

Application how dealt with.

100. The provisions of this chapter, so far as they are applicable, may be applied by order of the Deputy Commissioner to the partition or union of mahâls held free of revenue.

Partition or union of revenue-free mahâls.

101. The partition of taluqdârî and under-proprietary mahâls and of mahâls held by lessees whose rent has been fixed by the Settlement Officer, shall be carried out accordingly to the provisions of sections 70 to 94 (both inclusive), so far as they are applicable.

Partition of taluqdârî and under-proprietary mahâls.

(*a*) In the partition of taluqdârî mahâls, all mahâls, whether under-proprietary or held by lessees whose rent has been fixed by the Settlement Officer shall, if practicable, be assigned to one or other of the new taluqâs to be formed by the partition;

Assignment of inferior mahâls.

(*b*) if any such mahâl cannot be assigned in whole, the assignment shall be made by thoks, pattîs or other existent sub-divisions;

(*c*) and if no other satisfactory arrangement can be made, such mahâl shall be partitioned;

(*d*) in cases in which one portion of any such mahâl is assigned to one taluqâ and another portion to another taluqâ, each portion shall be deemed a separate mahâl, the joint responsibility of the co-sharers being limited to such portion.

102. Whenever a partition of a mahâl in respect of which rent is payable is effected under this Act, the amount of rent to be paid in respect of each portion shall be determined by the Deputy Commissioner, and the person to whom such rent is payable may present an application in writing to the Deputy Commissioner objecting to the distribution of the rental over the several parts into which the mahâl has been divided, and praying that such objection may be heard and determined; and his objection shall be heard and determined, and the Deputy Commissioner shall record his reasons for such determination.

Objection to distribution of rental.

CHAPTER VI.

MAINTENANCE OF BOUNDARIES.

103. The Deputy Commissioner and his subordinates shall have power to enter upon and survey land, and to demarcate the boundaries of mahâls, villages and fields.

Power of Deputy Commissioner to enter and survey.

104. All owners of mahâls, villages or fields, are bound to maintain and keep in repair at their own cost the boundary-marks lawfully erected thereon.

Obligations of owners as to boundary-marks.

105. Any person convicted before a Deputy Commissioner of wilfully erasing, removing or damaging any such boundary-mark, may be ordered by the convicting officer to pay such sum not exceeding fifty rupees for each mark so erased, removed or damaged, as may be necessary to defray the expense of restoring such mark, and of rewarding the informer (if any) through whom the conviction was obtained.

Payment for erasing, removing or injuring marks.

106. Whenever the person erasing, removing or damaging any such mark cannot be discovered, or if for any other reason the sum which he has been so ordered to pay cannot be recovered, the mark shall be re-erected or repaired at the charge of the owner or owners of such one or more of the conterminous field or mahâls as to the Deputy Commissioner seems fit.

Who is to be charged for re-erection and repair when offenders not discoverable.

107. The Deputy Commissioner may decide, on the basis of possession, all disputes concerning boundaries, and may at any time direct the owners of mahâls villages or fields, by written notice served upon them,

Powers of Deputy Commissioner as to boundary disputes and boundary-marks.

(*a*) to cause proper boundary-marks to be erected in such mahâls, villages or fields,

(*b*) to repair the boundary-marks lawfully erected in such mahâls, villages or fields.

108. In default of compliance with such direction within fifteen days from the date of the service of the notice, the Deputy Commissioner shall cause such boundary-marks to be erected or repaired, as the case may be, and shall charge the cost of such erections or repairs to the owners of the conterminous mahâls, villages or fields in such proportion as he thinks fit.

Power to erect or repair boundary-marks.

CHAPTER VII.

COLLECTION OF THE LAND-REVENUE.

109. In the case of every mahâl the entire mahâl shall be charged with, and all the proprietors jointly and severally shall be responsible to Government for the revenue for the time being assessed on the mahâl.

Responsibility of proprietors of mahâl for land-revenue.

The term "proprietors" shall, for the purposes of this chapter, include all persons in possession for their own benefit.

110. The Chief Commissioner may, from time to time, make rules as to the instalments in which, and the persons, places and times to whom, and at which, the revenue payable in respect of any land shall be paid.

Chief Commissioner may make rules as to payment of revenue.

111. Until the issue of such rules the said revenue shall be paid in the instalments, to the persons, and at the times and places in which, to whom, and at which, it is now paid.

Payment until issue of rules.

112. Any sum not so paid becomes thereupon an arrear of revenue, and the proprietor responsible for it becomes a defaulter.

Effect of non-payment.

No interest shall be demanded on any arrear of land-revenue.

113. If the settlement of any land has been made with a lambardár, and if there be an arrear of revenue due in respect of such land, both the lambardár and the co-sharers of the mahâl from which the arrear is due shall be deemed defaulters.

Defaulters in case of settlements with lambardárs.

114. A statement of account certified by the tahsîldar shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

Evidence of arrear.

115. When an arrear of land-revenue has accrued, a writ of demand or summons to appear may issue, calling on the defaulter to pay the amount within a time therein stated.

Writ of demand.

116. At any time after an arrear of land-revenue becomes due, such officer as the Chief Commissioner from time to time empowers in this behalf, may arrest the defaulter and detain him in custody for fifteen days, unless the arrear, together with the costs of arrest, is sooner paid.

Arrest and detention of defaulter.

117. If the arrear be not paid within fifteen days, and no good reason for the non-payment is shown, the Deputy Commissioner may issue an order to the jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding six months from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order:

Imprisonment in civil jail.

Provided that no person exempted under the law for the time being in force from personal attendance in the Civil Courts, no taluqdár and no female, shall be subject to arrest or imprisonment under this and the preceding section.

118. The Deputy Commissioner may, whether the defaulter has been arrested and imprisoned or not, order the attachment and sale of so much of his moveable property as will, as nearly as may be, defray the arrear.

Attachment and sale of moveables.

Nothing herein contained shall authorize the attachment and sale of articles set aside exclusively for the use of religious endowments: or, in the case of an agriculturist, of instruments of husbandry and of cattle *bond fide* kept for the cultivation of his land, or in the case of an artisan, of his tools, nor of any other articles exempted by the law for the time being in force from sale in execution of decrees of Civil Courts.

119. Every attachment and sale ordered under the preceding section shall be conducted according to the law in force for the time being, for the attachment and sale of moveable property under the orders of a Civil Court.

Conduct of sale.

120. When an arrear of land-revenue has become due in respect of a share, pattî or mahâl, the Deputy Commissioner may in addition to, or instead of, the processes hereinbefore specified, cause such share, pattî or mahâl to be attached and taken under the direct management of any agent whom he appoints for that purpose.

Property may be attached and taken under direct management.

The agent so appointed shall stand, for the purpose of managing the property so attached, in the position of the person for whose default it was attached;

Powers and obligations of agent.

and shall be bound by all the liabilities of such person to any under-proprietors, lessees whose rent has been fixed by a Settlement Officer, or tenants with rights of occupancy;

and shall be entitled to manage such property and to receive all rents and profits accruing thereon to the exclusion of the person for whose default it was attached,

until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

121. All surplus profits of the property so attached after defraying thereout any instalment of land-revenue that may become due during such management, and the cost of such attachment and direct management, shall be applied to discharging the arrear of revenue on account of which it was ordered.

Application of surplus profits.

And no such management shall continue after such arrear has been discharged as aforesaid, and any surplus remaining after payment of the charges mentioned in the first clause of this section shall be handed over to the proprietor.

Termination of management.

122. If an arrear of land-revenue has become due in respect of the share of any member of a village community, such community, or any member thereof, may tender payment of such arrear, or may offer to pay such arrear by instalments.

Transfer of share of defaulter to solvent co-sharers.

If such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to the community or member making the tender or offer on such terms as the Deputy Commissioner thinks fit, and either for a term of years, or until such arrear is paid.

In case of conflicting tenders or offers under this section, the co-sharer who, in case the share were sold, would have a right of pre-emption under section 9 of the Oudh Laws Act, shall be preferred.

123. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years from the date of the transfer, the community or member to whom the share has been so transferred may apply in writing to the Deputy Commissioner

When transfer of share is to become absolute.

to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute.

The Deputy Commissioner shall publish such notification accordingly, and if the arrear is not repaid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute.

Procedure not to affect joint liability of co-sharers.

124. The procedure prescribed in the two preceding sections shall not affect the joint liability of the co-sharers of the mahál.

When settlement may be annulled.

125. When any arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner is of opinion that the processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, any such process, report, through the Commissioner of the division, the matter to the Chief Commissioner, and the Chief Commissioner may thereupon order the existing settlement of such pattí or mahál to be annulled.

Exception of certain arrears.

The provisions of this section shall not be put in force for the recovery of any arrear of land-revenue which may have accrued on land,

(*a*) while attached under section 120, or

(*b*) while in charge of the Court of Wards.

When settlement has been annulled, the Deputy Commissioner may manage the land himself, or by agent, or let it in farm.

126. When the settlement of any pattí or mahál has been annulled under the last preceding section, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either manage the land by himself or an agent, or let it in farm to any person willing to accept the same, for such term and on such conditions as may be approved by the Chief Commissioner :

Provided that the term for which a pattí or mahál may be so managed or let be not longer than fifteen years from the first day of July next after the date of such annulment.

Suspension of contracts.

And no interest in or right to such pattí or mahál, or any part thereof, created or assigned by any person who, immediately before the annulment of the settlement, was in possession of the whole or any part of the land comprised therein, or by any person through whom he claims, shall, during the continuance of such term, be binding on the Deputy Commissioner or his agent or lessee.

Proclamation of attachment or annulment of settlement.

127. When the Deputy Commissioner attaches any land under section 120, or when the settlement of any land has been annulled under section 125, he shall make public proclamation thereof on the mahál.

And he may realize all arrears of rent becoming due in respect of such land by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, as if they were arrears of land-revenue.

Payments thereafter to defaulter not to discharge payer.

128. No payment made after such proclamation on account of rent or other profit of the land so attached, or of which the settlement has been so annulled to any person other than the Deputy Commissioner or his agent or lessee, shall be credited to the person making such payment, or relieve him from liability to payment to the Deputy Commissioner, his agent or lessee.

Payments to defaulter in anticipation of due date.

129. No payment made to the defaulter in anticipation of the usual period for the payment of rents, shall, without the special sanction of the Deputy Commissioner, be credited to the person making the same in account with the Deputy Commissioner, or with his agent or lessee.

Recovery of balance due by farmer.

130. When any land has been let in farm under section 126 any balance due by the lessee as such may be recovered from him or his surety (if any) as if it were an arrear of revenue.

Suspension of responsibility of co-sharers for revenue of portion of mahál as to which settlement is annulled.

131. Whenever the settlement of any portion of a mahál is annulled under section 125, the joint responsibility of the co-sharers of the mahál for the revenue of such portion subsequently becoming due, shall be in abeyance until a new settlement of such portion is made under section 132.

Offer of settlement to proprietor on expiry of period for which land is managed or farmed.

132. After the expiration of the period for which any land has been managed or let in farm under section 126, the Deputy Commissioner shall offer to the person entitled to be settled with under section 26 a new settlement, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the district; and if such person refuse such offer, the Deputy Commissioner may (with the previous sanction of the Chief Commissioner) either manage the land by himself or an agent, or let the same in farm, under the provisions of sections 30 to 38, both inclusive.

Power to sell land to recover revenue-arrears.

133. When an arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner of the district is of opinion that the other processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of all or any such other processes, and subject to the provisions next hereinafter contained, and with the previous sanction of the Chief Commissioner, sell by auction the pattí or mahál in respect of which such arrear is due :

Provided that no pattí or mahál shall be sold—

(*a*) for any arrears of land-revenue which may have become due in respect thereof while it was under the management of the Court of Wards, or held under the provisions of the Oudh Taluqdárs' Relief Act, or when the proprietor or under-proprietor thereof was, at the time the arrear accrued, a female deemed by the Chief Commissioner incompetent to manage her estate, a minor, an idiot, or a lunatic ;

(*b*) for any arrears of land-revenue which may have become due while it was under attachment under section 120 ; or

(*c*) for any arrears of land-revenue which may have become due while it was under direct management by the Deputy Commissioner, or in farm by

any other person under sections 32, 35, 126, or 132.

Land to be sold free of incumbrances.

134. Land sold under the last preceding section shall be sold free of all incumbrances,

Grants and contracts void against purchaser.

and all grants and contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser at the auction-sale.

Exceptions.

Nothing in the former part of this section applies to leases of lands at fair rents, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship or burying grounds.

Power to direct sale to be made subject to incumbrances.

135. The Chief Commissioner may, notwithstanding anything contained in section 134, at any time before a sale of land for arrears of revenue has been actually made, direct it to be made subject to such of the interests in or rights to such land created by the proprietor in possession thereof, or any person through whom he claims, as the Chief Commissioner thinks fit.

Power to cancel restricted sale and re-sell under section 134.

When the proceeds of a sale so made are not equal to the arrears due at the time of sale, the Chief Commissioner may, at any time before the Commissioner of the Division has confirmed the sale, direct it to be cancelled and a new sale of the land to be made under section 134.

Power to proceed against defaulter's other immoveable property.

136. If the arrear cannot be recovered by any of the above processes, and the defaulter is in possession of any other immoveable property, the Deputy Commissioner may proceed against such other property, as if it were the land on account of which the revenue is due under the provisions of this Act :

Provided that no interest save those of the defaulter alone, shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by such proceeding.

Procedure in effecting sale.

137. On the receipt of the sanction of the Chief Commissioner to the sale of any land, the Deputy Commissioner of the district shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale,

and (when the land to be sold is a mahál or part of a mahál paying revenue to Government) the revenue assessed upon it, together with any other particulars he may think necessary.

Contents of proclamation.

138. When the land is sold for arrears of revenue due in respect thereof, the proclamation shall declare that the land is to be sold free of every incumbrance except the leases mentioned in section 134, and except the interests and rights, if any, referred to in the first paragraph of section 135.

The particulars of such leases, interests and rights shall be given in the proclamation.

Such proclamation shall be made at the headquarters of the tahsíl in which the land is situate, and also in the village of which it is a part.

Notification of sale.

139. A written notice of the intended sale and of the time and place thereof shall be affixed in the office of the Deputy Commissioner of the district, and where the Assistant Commissioner in charge of the sub-division in which the land is situate has a separate office, then also in such office, and a copy of such notice shall be served on the defaulter.

Sale by whom to be made.

140. Every sale under this chapter shall be made either by the Deputy Commissioner of the district in person or by an Assistant Commissioner specially appointed by him in this behalf.

Time when sale may be made.

No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the said notice thereof has been affixed in the office of the Deputy Commissioner of the district, and proclamation of the sale has been made in the village in which the land is situate.

The Deputy Commissioner of the district may, from time to time, postpone the sale, reporting such postponement to the Commissioner of the division.

When sale may be stayed.

141. If the defaulter pay the arrear of revenue in respect of which the land is to be sold at any time before the day fixed for the sale, to the person appointed by Government under section 110, to receive payment of the revenue assessed on such land, or to the Deputy Commissioner of the district, or the Assistant Commmissioner in charge of the sub-division of the district, the sale shall be stayed.

Deposit by purchaser.

142. The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of

Re-sale in default of deposit.

such deposit the land shall forthwith be again put up and sold.

Purchase-money when to be paid.

143. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the land took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then on the first office day after such fifteenth day ;

Resale in case of default.

and in default of payment within such period, the deposit, after defraying thereout 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 be subsequently sold.

Liability of purchaser for loss by re-sale.

144. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in the Code of Civil Procedure for the execution of a decree for money.

Notification before re-sale.

145. No re-sale under section 143 in default of payment of the purchase-money shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

146. At any time within thirty days from the date of the sale, application in writing may be made to the Commissioner of the Division to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it.

Application to set aside sale.

147. No sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of.

When sale may be set aside.

148. After the expiration of the said thirty days, if no such application as is mentioned in section 146, has been made, or if such application has been made and rejected, the Commissioner of the Division shall make an order confirming the sale;

Order confirming or setting aside.

and if such application be made and allowed the Commissioner shall make an order setting aside the sale.

Every order made under this section shall be final.

149. If no such application be made within the time allowed by section 146, all claims founded on the irregularity or mistake complained of shall, as against the Government, be barred.

Bar of claims against Government.

Nothing herein contained shall preclude the institution of a suit in a Civil Court for the purpose of setting aside a sale on the ground of fraud.

150. Whenever the sale of any land is set aside, the purchaser shall be entitled to receive back his purchase-money, with or without interest, at such rate not exceeding six per cent. per annum, as the Commissioner of the Division thinks fit.

Refund of purchase-money when sale set aside.

151. After a sale of land in respect of which an arrear of revenue is due has been confirmed in manner aforesaid, the Deputy Commissioner of the District shall, unless the purchase has been made subject to a right of some other person to possession, put the person declared to be the purchaser into possession of the land, and shall grant him a certificate, to the effect that he has purchased the land to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such land, but need not be stamped or registered as a conveyance.

On confirmation of sale, purchaser to be put in possession.

If the land has been sold on account of an arrear of revenue due in respect thereof, the certificate shall also either state that the purchaser has purchased the land to which the certificate refers free of every incumbrance other than the leases mentioned in section 134, or shall specify the incumbrances subject to which the land has been sold.

152. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Bar of suit against certified purchaser.

153. When a sale of land has been confirmed under section 148, the proceeds of the sale shall be applied in the first place to defraying the expenses of sale and to the payment of any arrears due in respect of such land at the date of the confirmation of such sale and recoverable as an arrear of land-revenue,

Application of proceeds of sale.

and the surplus (if any) shall be paid to the person whose land has been sold;

or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their recorded interests, at the discretion of the Deputy Commissioner of the District.

154. Such surplus shall not (except under an order of a Civil Court) be payable to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained in the Government treasury.

Surplus not to be paid to creditors, nor retained by Government except under order of Court.

155. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the confirmation of the sale.

Liability of purchaser for revenue.

156. Where any land sold under section 133 is a pattí of a mahál, any recorded co-sharer, not being himself in arrear with regard to the revenue due in respect of such land, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Pre-emption by co-sharers when land sold is a pattí of a mahál.

Provided that such claim be made on the day of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfil all the other condtions of the sale.

157. Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings,

Payment under protest and suit for recovery.

and upon such payment the proceedings shall be stayed,

and (subject to the pecuniary limitations prescribed by law) the person against whom such proceedings were taken may sue the Government for the amount so paid in any Civil Court situate in the district where such proceedings were taken;

and in such suit, the plaintiff may, notwithstanding section 114, give evidence of the amount which he alleges to be due from him.

158. Any proprietor or under-proprietor of a mahál or portion of a mahál that is attached, transferred, held under direct management, farmed or sold under the provisions of this Act, who may, at the date of the order of such attachment, transfer, direct management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner may determine, and the rent to be

Proprietor of mahál when to be deemed a tenant with right of occupancy.

paid by him for such land shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

159. Whenever a mahál or pattí is held in sub-settlement, or under a heritable, nontransferable lease, the rent payable under which has been fixed by the Settlement Officer, and the rent of such mahál or pattí falls into arrear, the proprietor may, instead of suing the defaulter under Act No. XIX of 1868, apply in writing to the Deputy Commissioner requesting him to realize such arrear.

Assistance to recover rent of mahál held in sub-settlement.

The Deputy Commissioner shall, on receipt of such application, satisfy himself as to the existence of such arrear, and shall then, subject to such rules as may from time to time be made in this behalf by the Chief Commissioner, proceed to recover such arrear as if it was an arrear of revenue.

160. If the term for which any settlement has been made expires before a new settlement is made, all persons with whom a settlement has been made, who continue after the expiration of such term to occupy the land comprised in the expired settlement shall, until a new settlement is made, hold the said land upon the conditions of the expired settlement.

Tenure of land under expired settlement until new settlement is made.

161. The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of land-revenue and sums of money recoverable as arrears of land-revenue and due when this Act comes into force.

Provisions applied to arrears due at commencement of Act.

CHAPTER VIII.

COURTS OF WARDS.

162. Deputy Commissioners shall, subject to the control of the Commissioner of the Division and of the Chief Commissioner, have the power of a Court of Wards within their respective districts for the superintendence of the persons and property of all persons who may become entitled as proprietors or under-proprietors, or lessees whose rent has been fixed by a Settlement Officer, to any beneficial interest in a mahál or portion of a mahál assessed to the payment of land-revenue or held free of revenue, and who are either disqualified for the management of their own estates or are committed by a Civil Court to the care of the Deputy Commissioner:

Deputy Commissioners to be Courts of Wards.

Provided that the Court of Wards shall not take charge of or administer any beneficial interest in an estate, in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Bar of jurisdiction in certain cases.

163. Persons shall be held to be disqualified to manage their own estates when they are

Persons when disqualified to manage their estates.

(*a*) females deemed by the Chief Commissioner incompetent to manage their estates,

(*b*) minors,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons who may in the opinion of the Chief Commissioner be otherwise rendered incapable by physical defects or infirmities from managing their estates,

(*f*) persons convicted of a non-bailable offence and disqualified in the opinion of the Chief Commissioner by vice or bad character from managing their estates,

(*g*) persons declared by the Chief Commissioner on their own application to be disqualified from managing their estates.

164. The Deputy Commissioner may make an inquiry into the disqualification of any person, who, he has reason to believe, disqualified within the meaning of section 163, clauses (*b*), (*c*) or (*d*), and into the circumstances and property of any such person, and may make an order declaring him to be subject to the jurisdiction of the Court of Wards.

Inquiry into minority, lunacy, idiocy, &c.

165. The Court of Wards may assume or refrain from assuming the superintendence of the person or property of any disqualified person and may at any time release any person or property from its superintendence: Provided that such person or property has not been placed under the Court of Wards by any competent authority whose order is necessary to his or its release.

Jurisdiction of Court of Wards.

166. If in any case not specially provided for by this or any other law for the time being in force, the right of the Court of Wards to assume or retain the superintendence of the estate of a disqualified person is disputed by such person, the case shall be reported to the Chief Commissioner whose orders thereon shall be final.

Report to Chief Commissioner when right of Court of Wards is disputed by persons other than those specially provided for.

167. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto.

Extent of jurisdiction.

168. The Court of Wards may appoint managers of the property of disqualified proprietors, and if such proprietors be minors, idiots or lunatics, may appoint guardians for the care of their persons, and may remove and control such managers and guardians.

Appointment, removal and control of guardians.

169. Proprietors may appoint guardians for their heirs, if disqualified, by will executed and attested in manner required in case of Taluqdárs by Act No. I of 1869, and in case of other proprietors by the Indian Succession Act, 1865; but the Court of Wards shall be competent to remove such guardian for any sufficient reason.

Power of proprietors to appoint guardians for disqualified heirs.

170. The Court of Wards may direct where all male minors under its jurisdiction shall reside for the purpose of education or otherwise.

Powers of Courts of Wards as to male minors within its jurisdiction.

171. The manager appointed by the Court of Wards shall have power to collect the rents of the land entrusted to him, as well as all other money due to

Powers of manager.

the disqualified proprietor, and to grant receipts therefor;

and he may, subject to the control of the Court, grant or renew such leases and farms, not being for a longer period than five years, as may be necessary for the good management of the property.

172. The manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the proprietor's interest as if the property were his own.

Duties of manager.

173. The Court of Wards shall have power to give such leases or farms of the whole or parts of the immoveable property under its charge, and to mortgage or sell any part of such property, and to do all such other acts, as it may judge to be most for the benefit of the property and the advantage of the disqualified proprietors.

Power of Court of Wards as to land under its charge.

174. Persons whose property is under the superintendence of the Court of Wards shall not be competent to create without the sanction of the Court any charge upon or interest in such property or any part thereof.

Disabilities of persons subject to Court of Wards.

175. No such property shall be liable to be taken in execution of a decree made in respect of any contract entered into any his property is under such superintendence.

Their property exempt from being taken in execution of certain decrees.

176. All disqualified proprietors whose property is in charge of the Court of Wards shall sue and be sued by and in the name of their guardians, where guardians have been appointed; otherwise by and in the name of the Court of Wards.

Suits by and against disqualified proprietors in charge of Court of Wards.

Provided that no such suit shall be maintained or defended by any guardian without the sanction of the Court of Wards.

177. If no such guardian has been appointed, the disqualified proprietors shall sue and be sued by and in the name of the Court of Wards.

Suits by such proprietors when no guardian appointed.

178. Every manager appointed by the Court of Wards shall—

Rules relating to managers.

(*a*) give such security as the Court of Wards thinks fit, duly to account for what he shall receive in respect of the rents and profits of the property for which he is appointed;

(*b*) pass his accounts at such periods and in such form as the Court of Wards directs;

(*c*) pay the balance due from him thereon;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by such Court;

(*e*) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

CHAPTER IX.

POWERS OF OFFICERS.

A.—Powers of Assistant Commissioners.

179. An Assistant Commissioner in charge of a sub-division shall as such have the following powers:—

Powers of Assistant Commissioners of the first class.

(*a*) to refer cases for inquiry or decision to his subordinates;

(*b*) to withdraw cases from his subordinates and to deal with them himself, or to refer them for disposal to any other subordinate officer competent to deal with them;

(*c*) to order changes in the proprietary register;

(*d*) to levy fees for mutations;

(*e*) to enquire into cases of reported transfers;

(*f*) to levy fines, under section 65;

(*g*) to declare the person best entitled to property and put him in possession, under section 66;

(*h*) to report on revenue-free holdings, and to assess revenue on resumed grants;

(*i*) to assess alluvial lands;

(*j*) to receive applications for and make partitions under chapter V, of this Act, subject to the confirmation of the Deputy Commissioner of the District;

(*k*) to impose fines for injuries to boundary-marks, and in certain cases apportion the charges of re-erecting and repairing boundary-marks;

(*l*) to call on owners to erect or repair boundaries, and, in default, to erect and repair and charge the cost to owners, and to decide disputes regarding boundaries;

(*m*) to attach and sell moveable property of defaulters, under section 118;

(*n*) to fix under section 158 the area of the land to be held as a tenant with right of occupancy and the rent to be paid for it by proprietors of mahâls which have been attached, transferred, held under direct management, farmed or sold, under the provisions of this Act, for land in their cultivating occupancy;

180. Assistant Commissioners of the first class, not in charge of sub-divisions of districts, shall exercise all or any of the powers conferred on Assistant Commissioners of the first class in charge of sub-divisions, in such cases or class of cases as the Deputy Commissioner of the District may, from time to time, refer to them for disposal.

Powers of Assistant Commissioners of first class not in charge of sub-divisions.

181. All Assistant Commissioners of the second class shall have power to investigate and report on such cases as the Deputy Commissioner of the District or Assistant Commissioner in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

Powers of Assistant Commissioners of second class.

B.—Powers of Settlement Officers.

182. Officers in charge of a settlement may exercise all the powers conferred by or under this Act on Settlement Officers, and by section ten on the Deputy Commissioner of the District, but none but an officer in charge of a settlement or an Assistant Settlement Officer specially empowered by the Chief Commissioner shall have power—

Powers of officers in charge of a settlement.

(*a*) to frame proposals for assessment;

(*b*) to distribute the assessment;

(*c*) to re-distribute land or revenue under section 31;

(*d*) to determine the rent payable under section 40 by under-proprietors or lessees;

(*e*) to exclude proprietors from settlement for refusal to engage;

(*f*) to adjust the rent of excluded proprietors;

(*g*) to determine under section 56 the rent payable in respect of resumed rent-free tenures;

(*h*) to resume and assess revenue-free land.

183. All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers, under such restrictions as the officer in charge of a settlement may from time to time impose.

Powers of Assistant Settlement Officers.

184. The Chief Commissioner may with the previous section of the Governor General in Council invest any officer in charge of a settlement with all or any of the powers of a Deputy Commissioner under this Act, and any Assistant Settlement Officer with all or any of the powers conferrible on an Assistant Commissioner under this Act within such limits, and with such restrictions, and for such period as he thinks fit.

Investing of Settlement Officers with powers of Deputy Commissioner and Assistant Commissioner.

CHAPTER X.

APPEALS.

185. Appeals shall lie under this Act as follows:—

Officers to whom appeals lie.

(*a*) to the Chief Commissioner from any order passed by a Commissioner except such orders as are made on appeal from orders passed by Deputy Commissioners in the exercise of their appellate jurisdiction;

(*b*) to the Commissioner from orders, original or appellate, passed by Deputy Commissioners or officers in charge of a settlement in any proceeding held under the provisions of this Act;

(*c*) to the Deputy Commissioner from orders passed by any Assistant Commissioner;

(*d*) to the officer in charge of a settlement from orders passed by an Assistant Settlement Officer.

186. No appeal under section 185, clauses (*c*) and (*d*), shall be brought after the expiration of thirty days from the date of the order complained of.

Limitation of appeals.

No appeal under the same section, clause (*b*), shall be brought after the expiration of six weeks from the date of the order complained of, unless otherwise specially provided.

No appeal under the same section, clause (*a*), shall be brought after the expiration of two months from the date of the order complained of.

187. In computing the period prescribed for an appeal under this chapter, the day on which the order complained of was passed, and the time requisite for obtaining a copy of such order, shall be excluded.

Time to be excluded.

188. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

Admission of appeal after period of limitation.

No appeal shall lie against an order under this section admitting an appeal.

189. The officer to whom the appeal lies may either admit or summarily reject the appeal. If he admit the appeal, he may reverse, modify or confirm the order appealed against, or he may direct such further investigation to be made or such additional evidence to be taken as he may think necessary, or he may himself take such additional evidence.

Procedure on admitting appeal.

190. In every case in which an appeal is admitted, the execution of the order appealed may, pending the result of the appeal, be suspended.

Suspension of order appealed against.

191. The Chief Commissioner and every Commissioner shall have power to call for the file of any proceeding held by any officer subordinate to him, and to pass such orders thereon as he thinks fit.

Power to call for files of subordinate officers.

CHAPTER XI.

REFERENCE TO ARBITRATION.

192. The Chief Commissioner, a Commissioner of a Division, a Deputy Commissioner, an Assistant Commissioner of the first class, an officer in charge of a settlement, or an Assistant Settlement Officer may, with the consent of the parties, by order, refer any dispute before him to arbitration; and any officer acting under the provisions of sections 103 to 108, both inclusive, may, with the consent of the parties, refer to arbitration any dispute arising before him respecting the matters mentioned in the same sections.

Power to refer disputes to arbitration.

193. In referring any such dispute to arbitration, the officer making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators, and such period as he may think reasonable for the delivery of the award;

What to be specified in order of reference.

and he may from time to time extend such period.

194. The parties to the case may each nominate either one or two arbitrators, provided that each party shall nominate the same number;

Appointment of arbitrators.

and a third or fifth arbitrator (as the case may be) shall be appointed by the parties, or, in the event of their being unable to agree, by the officer making the reference.

Power to excuse arbitrator from serving, and to call for nomination of substitute.

195. Every officer making a reference under this chapter may, on good cause shown, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused.

Nomination of new arbitrator in place of one dying or failing to act.

196. If an arbitrator die, desire to be discharged, or refuse or become incapable to act, the party who nominated him shall nominate another person in his place.

Nomination by officer when parties fail.

197. If in any of the cases provided for by section 195 or section 196 any party fail for a week to nominate in manner aforesaid, the officer making the reference shall appoint some person to act as arbitrator.

Award.

The arbitrators shall determine and award concerning the matters referred to them for arbitration; and the parties disputing, and all persons claiming through them respectively, shall abide by and perform the award of the arbitrators.

Summoning parties to give evidence.

198. If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they shall apply to the officer making the reference, who shall summon such parties or persons;

Obligation of persons summoned.

and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth as to the subject-matter of the reference, and to produce such documents and other things as may be required before the arbitrators.

Preparation and submission of award.

199. The award shall be made in writing under the hands of the arbitrators, and shall be submitted by them to the officer making the reference, who shall cause notice to be served on the parties to attend and hear the award.

In what cases award or subject of arbitration may be remitted to arbitrators.

200. The officer making the reference may remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators,

(*a*) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if an objection to the legality of the award is apparent upon the face of the award.

Grounds on which award may be set aside.

201. No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators.

Application to set aside.

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Decision according to award.

202. If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid,

and if no application has been made to set aside the award,

or if he has refused such application,

he shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration, and direct by, and to whom, and in what manner, the same shall be paid.

Bar to appeal any suit in Civil Court.

203. Such decision shall not be open to appeal, and shall be at once carried out;

and no Civil Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

CHAPTER XII.

MISCELLANEOUS.

Place for holding Court.

204. Subject to the orders of the Chief Commissioner,

(*a*) a Commissioner may hold his Court at any place within his division that he thinks fit:

(*b*) a Deputy Commissioner, an Assistant Commissioner (whether in charge or not of a sub-division of a district), or an officer in charge of a settlement or Assistant Settlement Officer may hold his Court at any place within the limit of the district to which he is appointed; and

(*c*) a Tahsíldár may hold his Court at any place within the limits of his tahsíl.

Power to summon persons to give evidence and produce documents.

205. The Chief Commissioner and any officer mentioned in the last preceding section shall have power to summon any person whose attendance he considers necessary for the purpose of any investigation, suit or other business before him.

All persons so summoned shall be bound to attend either in person or by authorized agent as such officer may direct,

and to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

Conduct of proceedings.

206. All proceedings held under the provisions of this Act shall be conducted according to the rules for the time being prescribed under section 208.

Matters excepted from cognizance of Civil Courts.

207. No Civil Court shall exercise jurisdiction over any of the following matters:—

(*a*) the claim of any person to be settled with, or

the validity of any engagement with Government for the payment of revenue, or

the amount of revenue, cess or rate to be assessed on any mahál, or portion of a mahál under this or any other Act for the time being in force: or

the rent to be paid to a proprietor by an under-proprietor or a lessee whose rent has been fixed by the Settlement Officer.

(*b*) any claims connected with or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer:

(*c*) the formation of the settlement record,

the preparation, signing, or attestation of any of the documents contained therein, or

the notification of settlement:

(*d*) the distribution on partition of the land or allotment of the revenue of a mahál or of the rent of an under-proprietary tenure, or of rent payable by lessees whose rent has been fixed by a Settlement Officer.

(*e*) the determination of the rent to be paid by any person under section 87:

(*f*) claims connected with, or arising out of, the collection of revenue or any process enforced on account of an arrear of revenue, or on account of any sum which is by this or any other Act realizable as revenue other than claims under section 157:

(*g*) claims to set aside a sale for arrear of revenue other than claims under section 149.

In all the above cases, jurisdiction shall rest with the revenue officers only.

Power to make rules for purposes of Act.

208. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, make and issue rules consistent with this Act, and relating to the following matters:—

(*a*) the appointment, duties, remuneration, punishment and dismissal of—

(1) tahsíldárs.

(2) lambardárs or representatives of village communities,

(3) kánúngos or superintendents of revenue records,

(4) patwáris or village accountants;

(*b*) for regulating the assessment of land gained by alluvion or the reduction of the assessment of a mahál in consequence of diluvion;

(*c*) the procedure to be followed by any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(*d*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under the preceding sections of this Act, and not expressly provided for as regards appeal shall be appealable;

(*e*) the person by whom, and the time, and manner at or in which, anything for the doing of which provision is hereinbefore made in this Act, shall be done;

(*f*) the form and contents of reports to be furnished by officers required or empowered to take action in any matter, and the period within which such reports shall be furnished;

(*g*) the form and contents of the registers and lists kept under this Act; and

(*h*) the cases in which alone taluqdárí maháls and maháls whether under-proprietary or held by lessees whose rents have been fixed by the Settlement Officer shall be liable to partition under this Act;

(*i*) the costs of partitions under this Act and the persons by whom they are to be paid, and the mode of enforcing such payment against such persons or their shares in the property of which partition has been made;

(*j*) the issue under section 115, of writs of demand or summons to appear, and the costs recoverable from the defaulter, and the officer by whom such writs and summonses shall be issued;

(*k*) and generally to carry out the provisions of this Act.

Penalty for neglecting to appoint patwáris.

209. Where, by any rule framed under the provisions of clause (*a*) of the preceding section, the appointment of patwáris is directed to be made by the landowners of a village, or the landowners are made primarily responsible for enforcing the due submission of such returns as may be prescribed to be kept by patwáris, the neglect or refusal of such landowners to make such appointment or to enforce the submission of such returns shall be punishable with such fine not exceeding fifty rupees, as the Chief Commissioner directs.

Recovery of fines and costs.

210. All fees, fines, costs and other moneys ordered to be paid under this Act, shall be recoverable as if they were an arrear of land-revenue.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th July 1876:—

We, the undersigned Members of the Select Committee to which the Bill to declare and amend the laws to be administered in Oudh was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Secretary to Chief Commissioner, Oudh, No. 554, dated 2nd February 1871, and enclosures.
„ Government of Bengal, No. 3304, dated 14th July 1871, and enclosure.
Endorsement by Department of Revenue, Agriculture and Commerce, No. 900, dated 19th September 1872, forwarding—
Letter from Personal Assistant to Chief Commissioner, Oudh, No. 2779, dated 5th August 1872, and enclosures.
From Officiating Personal Assistant to Chief Commissioner, Oudh, No. 133, dated 14th January 1873, and enclosures.
„ Officiating Secretary to Chief Commissioner, Oudh, No. 4478, dated 19th September 1873, and enclosures.
„ Military Department, No. 437J, dated 8th January 1874, and enclosures.
„ Secretary to Chief Commissioner, Oudh, No. 1032, dated 4th March 1875, and enclosures.
„ Secretary to Chief Commissioner, Oudh, No. 3925, dated 21st August 1875, and enclosures.
„ Secretary to Chief Commissioner, Oudh, No. 2707, dated 9th January 1876, and enclosures.
„ Secretary to Financial Commissioner, Panjáb, No. 767, dated 18th July 1873, and enclosures.
„ Officiating Government Advocate, Panjáb, No. 1322, dated 16th July 1874.
„ Officiating Registrar, Chief Court, Panjáb, No. 1215, dated 15th May 1875, and enclosures.

2. We have omitted the chapter relating to minority. So far as relates to Europeans the matter is sufficiently provided for by Act No. XIII of 1874. As to Natives, there seemed some danger that the chapter in question might have interfered undesirably with their customs as to guardianship, minority, and bastardy; and as there is no evidence before us that those customs are either unjust or inexpedient, we thought it best not to touch them in the present measure. Exactly the same course was followed by the legislature when it passed the Panjáb Laws Act, and no inconvenience has been found to result.

3. We have transferred the chapter treating of the Court of Wards to the Oudh Land-Revenue Bill, with certain changes described in the report on that Bill.

4. For reasons similar to those mentioned in paragraph 2 of this report, we have omitted the chapter relating to betrothal. Here, again, we have followed the precedent of the Panjáb Laws Act.

5. We have redrawn the chapter of pre-emption, extending it to foreclosures of mortgages as well as to sales, as is done by the Panjáb Laws Act.

6. The substance of the sections on partitions has been inserted in the Oudh Land-Revenue Bill. We have therefore struck them out of the Laws Bill.

7. We have omitted the sections (46 and 47) as to the bar of certain suits for redemption. They were taken from the Oudh Courts Act: some difference of opinion exists about them; and they should not be inserted in a Bill of which the primary object is to clear up doubts as to what the law really is in Oudh. The Oudh Courts Act remains untouched in this respect.

8. We have also omitted the sections relating to insolvency. This matter will, so far as regards persons arrested or imprisoned in execution of money decrees, be dealt with by the revised Code of Civil Procedure, which will apply to Oudh as to other parts of British India; and, in any case, we think it inexpedient to give Oudh a special law on the subject.

9. We have also omitted the sections relating to intestacy. The procedure which they prescribe can, for the most part, be enforced by executive rules for the disposal of unclaimed property made under the Police Act, V of 1861. Moreover, so far as regards Europeans and East Indians, the necessary rules are already contained in the Administrator General's Act, II of 1874.

10. The retention of the system of trial by jury in civil cases in Lucknow alone, of all places in India, is obviously inexpedient. We have therefore struck out section 61.

11. We have struck out the clause of the Bill requiring Judges of Civil Courts to forward to the Deputy Commissioner certified copies of decrees affecting land.

12. As regards sales of land in execution of decrees, we have altered section 65 of the Bill so as to render unsaleable ancestral property in land without the permission of the Judicial Commissioner, and acquired property in land without the permission of the Deputy Commissioner. This maintains the modification of Act VIII of 1859, section 205, subject to which the Code of Civil Procedure was extended to Oudh in August 1861. We have also declared that in the clause under notice (section 21 of the amended Bill) the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59. This agrees with the Oudh Rent Act, section 109.

13. We have provided (section 22) for the appointment of a person to manage immoveable property under attachment.

14. We have amended (sections 23 and 24) the Oudh Rent Act sections 109 and 118.

15. We have omitted the chapters relating respectively to Escheats and Hidden Treasure. Rules as to the former subject can be made by the Executive and require no legislation. The latter subject will be dealt with by another Bill about to be introduced into the Council of the Governor General, which will apply to the whole of British India.

16. We have also omitted the chapter relating to Cantonments and Military Bázárs. So much doubt exists in the Military Department of the Government of India as to what rules should be made on this subject, that the Committee have thought it best to omit the chapter in question, and rely for the present on the rules contained in Bengal Regulation XX of 1810.

17. We have inserted, at the desire of the Chief Commissioner, a chapter (copied from Act XVI of 1873) dealing with Village and Road Police.

18. In the section relating to the creation of new districts, we have empowered the Chief Commissioner to subdivide districts and to alter the limits of subdivisions.

19. We have repealed sections 10 to 15 of the old Gambling Act, which were extended to Oudh by an executive order. We have also repealed Act XIX of 1863, as its provisions have been inserted in the Oudh Land-Revenue Bill. We have omitted from the schedule of repeals Act III of 1869, as to Rural Police, and sections 29 and 30 of the Oudh Civil Courts Act.

20. From the section (91) corresponding with sections 38 and 39 of the present draft, we have omitted the clause providing for the periodical republication of subsidiary rules.

21. From the second schedule we have omitted Regulation XXIII of 1803, as to fees to defray the expenses of Revenue-offices, and Regulation IV of 1821, as to the powers and duties of Collectors; and Acts I of 1847, as to boundary marks, XXVI of 1854, as to education of Wards, and XXXI of 1858, as to the settlement of alluvion. We have inserted Regulation XX of 1810, as to Military Bázárs, Regulation V of 1817, as to Hidden Treasure, and Regulation XI of 1822, section 38, as to the non-liability of Government for the errors of Courts of Justice.

22. The publication directed by the Rules for the conduct of legislative business has taken place. But the Bill has been so much altered that we think it should be republished, with this report, in the *Gazette of India* and the local Gazette, and that its further consideration should be postponed for two months.

A. HOBHOUSE.
R. H. DAVIES.
E. C. BAYLEY.
A. J. ARBUTHNOT.
JOHN INGLIS.
T. C. HOPE.
F. R. COCKERELL.

SIMLA;
The 22nd July 1876.

No. II.

THE OUDH LAWS BILL, 1876.

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FIRST SCHEDULE.

SECOND SCHEDULE.

A Bill to declare and amend the laws to be administered in Oudh.

Whereas it is expedient to declare and amend the laws to be administered in Oudh; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

Short title. 1. This Act may be called "The Oudh Laws Act, 1876."

Local extent. It extends only to the territories for the time being under the administration of the Chief Commissioner of Oudh;

Commencement. And it shall come into force on the passing thereof.

Repeal of enactments. 2. On and from that day, the Regulations, Acts, Rules and Orders mentioned in the first Schedule hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule.

PART II.

GENERAL LAWS TO BE ADMINISTERED IN OUDH.

Statutory law to be administered in Oudh. 3. The law to be administered by the Courts of Oudh shall be as follows:—

(a) the laws for the time being in force regulating the assessment and collection of land-revenue;

(b) in questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions or any religious usage or institution, the rule of decision shall be—

(1) any custom applicable to the parties concerned which is not contrary to justice, equity, or good conscience, and has not been by this or any other enactment altered or abolished and has not been declared to be void by any competent authority;

(2) the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been, by this or any other enactment, altered or abolished, or has been modified by any such custom as is above referred to;

(c) the rules contained in the third Part of this Act;

(d) the rules published in the local *Gazette* as provided by section sixty-two or made under any other Act for the time being in force in Oudh;

(e) the Regulations and Acts specified in the second Schedule hereto annexed, subject to the provisions of section four, and to the modifications mentioned in the third column of the same schedule;

(f) subject to the modifications hereinafter mentioned, all enactments for the time being in force and expressly, or by necessary implication, applying to British India or Oudh, or some part of Oudh;

(g) in cases not provided for by the former part of this section, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

Validity of local customs and mercantile usages. 4. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity, or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

PART III.

CHAPTER I.

DOWER AMONG MUHAMMADANS.

Muhammadan dower-contracts how to be enforced. 5. Where the amount of dower stipulated for in any contract of dower by a Muhammadan is excessive with reference to the means of the husband, the entire sum provided in the contract shall not be awarded in any suit by decree in favour of the plaintiff, or by allowing it by way of set-off, lien or otherwise to the defendant; but the amount of the dower to be allowed by the Court shall be reasonable with reference to the means of the husband and the status of the wife.

Rule applicable after husband's death. This rule shall be applicable whether the suit to enforce the contract be brought in the husband's lifetime or after his death.

CHAPTER II.

PRE-EMPTION.

Right of pre-emption. 6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons.

Presumption as to its existence. 7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed—

(a) to exist in all village-communities, however constituted, and whether proprietary or under-proprietary, and in the case referred to in section 40 of the Oudh Land-Revenue Act, and

(b) to extend to the village site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

Its existence in towns to be proved. 8. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein, and to be exercisable therein by such persons and under such circumstances as the local custom prescribes.

Devolution of right when property to be sold is part of a village. 9. If the property to be sold or foreclosed is a proprietary or under-proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs, in the absence of a custom to the contrary,

1*st*, to co-sharers in the tenure in order of their relationship to the vendor or mortgagor;

2*ndly*, if no relation of the vendor or mortgagor claim the said right to buy or redeem, to the land-owners of the pattí or other sub-division of the tenure in which the property is comprised;

3*rdly*, to any member of the village-community; and

4*thly*, if the property be an under-proprietary tenure, to the proprietor.

Notice to pre-emptors. 10. When any person proposes to sell any property, or when he forecloses a mortgage upon any property, in respect of which any persons have a right of pre-emption, he must give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be.

Such notice shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village or city in which the property is situate.

Loss of right of pre-emption. 11. Any person having a right of pre-emption in respect of any property proposed to be sold, shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell.

Decree to fix time for payment. 12. Such decree shall specify a day on or before which the purchase-money shall be paid.

Effect of non-payment of purchase-money. 13. If the purchase-money is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall lose his right of pre-emption over the property to which it relates.

Right of pre-emptor on foreclosure. 14. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section ten, pay or tender to the mortgagee or his successor in title the amount specified in such notice and shall thereupon acquire a right to purchase the property.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

Suit to enforce right of pre-emption.

15. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely)—

(*a*) that no due notice was given as required by section ten;

(*b*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*c*) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If in the case of a mortgage, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

CHAPTER III.

PROCEDURE OF THE COURTS.

(*a*) *Law of Limitation.*

Rule of Limitation.

16. The Judicial Commissioner's Circular No. 104 of July 1860, shall be held to have been a notification within the meaning of section twenty-four of Act No. XIV of 1859; and such Act shall be deemed to have been in force in Oudh from the fourth day of July 1862; and all orders and decrees passed under the rules contained in the said circular, or under the said Act, shall be deemed to have been passed under a law in force for the time being.

Nothing in this section affects the provisions of sections 102, 104, 105, 106, 107 and 108 of the Oudh Rent Act (XIX of 1868) with regard to the limitation of suits under that Act.

Act XXXII of 1871, s. 28, to cease in any district where first regular settlement is sanctioned.

17. The provisions of the Oudh Civil Courts' Act, 1871, section 28, shall cease to have effect in any district from the date on which the first regular settlement is sanctioned therein.

(*b*) *Modifications of the Code of Civil Procedure.*

Extension of the term 'recognized agent.'

18. Section 17 of Act VIII of 1859 is hereby repealed, so far as the Province of Oudh is concerned, and the following section is substituted therefor:—

"The recognized agents of parties by whom such applications and appearances may be made are—

"A permanent servant, partner, relation or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers of attorney from absent parties, parties carrying on business on behalf of bankers and traders, managing agents of landlords, nearest male relations of women, and persons *ex-officio* authorized to act for Government or for any prince or chief.

"Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to, or processes served on, a recognized agent, relative to a suit, shall be effectual for all purposes, in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act, relating to the service of notices or processes on a party to a suit, shall be applicable to the service of notices and processes on such recognized agent."

Modification of sec. 111 of Act VIII of 1859.

19. Section 111 of the same Act shall be construed as if the following clause were added thereto (namely) "Nothing in this section shall be deemed to compel the Court to decide *ex parte* in the absence of the defendant; but if the defendant does not appear the Court may, in its discretion, attach his property and issue a warrant to arrest and detain him till such day as it appoints for the hearing of the suit."

Rules for taking evidence.

20. Section 172 of Act No. VIII of 1859 is hereby repealed, so far as the Province of Oudh is concerned, and the following section is substituted therefor:—

"On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and hearing and under the personal direction and superintendence of the Judge.

"A note of the essential points of the evidence of each witness is to be taken at the time, and in the course of oral examination, by the officer who tries the case, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed, and shall form part of the record of the case.

"If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down to be interpreted to him in the language in which it was given.

"It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any party or his pleader requires it.

"If any question put to a witness be objected to by either of the parties or their pleaders, and the Court allow the same to be put, the question and the answer shall be taken down, and the objection and the name of the party making it shall be noticed in taking down the depositions, together with the decision of the Court upon the objection.

"The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

"If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record."

Execution of Decrees.

Execution sale of under-proprietary right.

21. So much of section 205 of the Code of Civil Procedure, as renders land liable to sale in execution of a decree, shall be subject to the following restriction:—

No ancestral property in land shall be sold in satisfaction of a decree without the permission of the Judicial Commissioner; no acquired property in land shall be so sold without the permission of the Deputy Commissioner.

Explanation.—In this section the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

Appointment of a person for the care and management of immoveable property.

22. Whenever the Civil Court may think fit under section 243 of the Civil Procedure Code, or any other law in force for the time being, to provide for the management of immoveable property, the Court shall issue a precept to the Deputy Commissioner of the district wherein such property may be situated, directing him to hold the property in attachment, and to appoint a person for the due care and management of the property under adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof.

The precept of the Civil Court above mentioned shall specify specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

Nothing in this section is to be taken as authorising a Civil Court to direct a Deputy Commissioner to attach immoveable property not in the actual possession of the judgment-debtor, or of some one on his behalf other than a creditor holding the said property as security for a debt due by the said judgment-debtor.

Section substituted for section 109, Act XIX of 1868.

23. The following section is substituted for section 109 of Act XIX of 1868 (The Oudh Rent Act):—

"The provisions of the Code of Civil Procedure, as in force in Oudh, shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act."

Section substituted for section 118, Act XIX of 1868.

24. Section 118 of the Oudh Rent Act No. XIX of 1868 is repealed, and the following section is substituted for it:—

"118. No process of execution shall be issued on a decree under this Act on any application made after the lapse of three years from the date of such decree."

No process of execution to issue on a decree after the lapse of three years from date of such decree.

Right of occupancy in judgment-debtor's sir land.

25. Any proprietor or under-proprietor of a mahál or portion of a mahál, which is attached, transferred, held under direct management, farmed or sold under the provisions of the Code of Civil Procedure, who may at the date of the order for such attachment, transfer, management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner shall determine, and the rent to be paid by him for land so determined shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

Power to make rules for custody and sale of attached property.

26. With the sanction of the Chief Commissioner, the Judicial Commissioner may from time to time make rules consistent with this Act and with the Code of Civil Procedure,

(*a*) for the custody and sale of moveable property attached in execution of decrees;

(*b*) for the levy of a fee or commission on the sale of attached property, and the disposal of the funds accruing from such fees;

(*c*) as to the appointment and remuneration of persons by whom property is to be attached, kept in custody, and sold; and

(*d*) as to the appointment and remuneration of persons by whom local investigation under section 180, and investigations and adjustments of accounts under section 181, of the Code of Civil Procedure, are to be made.

CHAPTER IV.

OF VILLAGE AND ROAD POLICE.

Appointment of Village Police.

Right of nomination of village policemen.

27. The nomination to the post of village policeman shall be made by the zamíndár of the village, or, where there are more zamíndárs than one, by the lambardár as their representative, and where there are more lambardárs than one, the opinion of the majority (unless there is some special provision to the contrary in the village administration paper) shall prevail.

Obligation to nominate.

28. Every person authorized to nominate to the office of village policeman shall, within fifteen days after the occurrence of a vacancy in such

office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district.

Discretion to appoint or reject nominee.

29. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorized by him in that behalf.

Power to Magistrate to appoint.

30. (*a*).—In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Procedure in case of rejection of nominee.

(*b*).—If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made, but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Appointment of Road Police.

Appointment of road police.

31. Subject to the rules to be framed under section thirty-seven and for the time being in force, the Magistrate of the district may, from time to time, appoint persons to be the road police of his district.

Duties of Village and Road Police.

Duties of village and road policemen.

32. Every village policeman and every road policeman shall perform the following duties:—

(*a*).—He shall give immediate information to the officer in charge of the police-station appointed for his village or beat,

(1) of every unnatural, suspicious, or sudden death occurring in the village of which he is chaukídár, or within his beat;

(2) of each of the following offences occurring in such village or on such beat (that is to say,) murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences.

(*b*).—He shall keep the police informed of all disputes which are likely to lead to any riot or serious affray.

(*c*).—He shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (*a*), clause (2) of this section.

(*d*).—He shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat.

(*e*).—He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood.

(*f*).—He shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on arrest by village or road policeman.

33. Whenever a village policeman or road policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

Liabilities of Village and Road Police.

Dismissal of village or road policeman.

34. The Magistrate of the district may dismiss any village policeman or road policeman for any misconduct or neglect of duty.

Acts punishable.

35. Every village policeman and every road policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,

or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections twenty-seven, thirty and thirty-one (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section thirty-seven and for the time being in force,

Penalty.

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay or to imprisonment for a period not exceeding three months, or to both.

Fines to be credited to such fund as Government appoints.

36. All fines levied under this Act on village policemen or road policemen shall be credited to such fund as the Local Government from time to time appoints.

CHAPTER V.

SUBSIDIARY RULES.

Power to make rules.

37. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make rules consistent with this Act as to—

(*a*) the discipline and remuneration of the village and road police and the regulation of their number, location and duties;

(*b*) the entry into cities or towns of bands of armed men;

(*c*) prohibiting bands of foreign vagrants from entering or requiring them to leave any district;

(*d*) the disposal of unclaimed property under Act No. V of 1861 (*for the regulation of Police,*) sections 25, 26, 27;

(*e*) public health and conservancy at fairs and other large public assemblies, and the maintenance of a proper watch and ward at such fairs and assemblies;

(*f*) imposing with the previous sanction of the Governor General in Council taxes for those purposes only;

(*g*) the manner in which records, civil, criminal and revenue, shall be kept; the appointment and removal of the persons entrusted with the custody of records, and all other matters connected with such custody and the destruction from time to time of such records as it may be deemed unnecessary to keep;

(*h*) the appointment, duties, punishment and dismissal of all ministerial officers other than those employed in the Civil Courts and those in respect of whom provision is made in the Oudh Revenue Act.

Publication of rules.

38. All rules made by the Chief Commissioner under section thirty-seven and all rules made by the Judicial Commissioner under section twenty-six shall be published in the local official *Gazette*, and shall thereupon have the force of law.

Rules prescribed in respect of matters for which rules may be made under this Act, to remain in force for twelve months.

39. All rules heretofore prescribed by competent authority in respect of any of the matters for which rules may be made under this Act, shall remain in force for twelve months after this Act comes into force, unless any rules on the same subject are previously issued by the Chief Commissioner or Judicial Commissioner.

Penalty for breach of rules.

40. Whoever breaks any rule made under this Act, shall, on conviction before a Magistrate, be punishable with a fine not exceeding fifty rupees, or imprisonment not exceeding a period of six months, or with both.

CHAPTER VI.

MISCELLANEOUS.

Honorary Civil Jurisdiction.

Power to invest Talukdárs with civil jurisdiction.

41. The Chief Commissioner may from time to time by notification in the official *Gazette*

(*a*) invest such persons as he thinks fit to be Honorary Assistant Commissioners with the powers of a Civil Court of the first or second grade,

(*b*) declare what shall be in each such case the local limits of the jurisdiction so conferred, and

(*c*) withdraw such jurisdiction.

Honorary Police Officers.

Honorary police officers.

42. The Chief Commissioner may from time to time confer on any person whom he thinks fit any power which may be exercised by a police officer under any Act for the time being in force, and withdraw any power so conferred.

Armed men and Foreign Vagrants.

Bands of armed men.

43. No band of armed men shall enter into any city or town, except with the consent of the Chief Commissioner or of such officer as he may empower in this behalf.

Foreign vagrants.

44. The Magistrate of the district may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace, or to commit any offence under the Indian Penal Code, prohibit such band from entering his district, or, if they are already in his district, may require them within a given time to leave it.

Procedure when they disobey Magistrate's orders.

45. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Chief Commissioner, and the Chief Commissioner may give such directions for the supervision, control, or deportation of such band as to him seems fit.

Pasturage of Government lands.

Pasturage of Government lands.

46. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent of the Chief Commissioner or of such officer as he may empower in this behalf.

Power to create new Districts.

47. The Governor General in Council may by notification in the *Gazette of India* create new Districts in any part of such territories, for any revenue, judicial or other purpose, and may alter the limits of existing Districts.

Power to form Sub-divisions of Districts.

The Chief Commissioner may from time to time divide any District into Sub-divisions, and from time to time alter the limits of such Sub-divisions.

All existing tahsíls shall be Sub-divisions of Districts until they are so altered.

THE FIRST SCHEDULE.

(*See section* 2).

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in Oudh, except those specified in the second schedule, and, except when expressly provided otherwise in this Act, all rules, Laws and Regulations made for the Province of Oudh, or any part thereof, which have acquired the force of law under the Indian Councils' Act.	
	Government Notification No. 4325 of 6th August 1861.	The whole.
XXI of 1857 ...	Gambling	Sections ten to fifteen.
XIX of 1863 ...	Partition	The whole.
XXXII of 1871 ...	The Oudh Civil Courts Act	Section thirty-one.

THE SECOND SCHEDULE.

(*See section* 3).

PART I.—BENGAL REGULATIONS.

Number and year.	Subject.	Modifications.
XXXIII of 1803 ...	Embezzlement by Native Officers.	In section II, *omit* the first sentence of the second clause, and in the second sentence of the same clause, *omit* "such" and "accordingly." In section III, *for* "Dewanny Adawlut of the Zillah, the Judge of which Court shall detain him" *read* "District, where he shall be detained;" *for* "real or personal" *read* "moveable or immoveable;" *for* "city" *read* "jurisdiction;" *for* "Board of Revenue" *read* "Chief Commissioner." In section IV, *omit* the words "or in either of the cities of Patna, Dacca or Moorshedabad."
X of 1804 ...	Punishment by Courts Martial of certain State offences.	*Omit* section I. In section II, *for* "the British territories subject to the Government of the Presidency of Fort William" *read* "the territories under the administration of the Chief Commissioner of Oudh." In section IV, *omit* "or before any special Court appointed for the trial of such offences under Regulation IV, 1799, and Regulation XX, 1803."

Number and year.	Subject.	Modifications.
XI of 1806 ...	Assistance to troops and travellers passing through Districts.	*Omit* sections I, VII, IX to XX (both inclusive), and so much of the rest of the Regulation as authorises Collectors and their native officers, or Magistrates and their police officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers. *For* "Collectors of Revenue" and "Collector" *read* "Deputy Commissioner" throughout the Regulation. In sections II and III, *for* "the Company's territories" *read* "Oudh." In section II, *omit* the last sentence. In section IV, clause *Third*, *for* "Governor General in Council" *read* "Chief Commissioner." In section V, *omit* "the Company's;" and *for* "Board of Revenue" *read* "Chief Commissioner." In section VI, *for* "Magistrate" *read* "Deputy Commissioner" and *for* "on the part of the Collector" *read* "by the Deputy Commissioner." In section VIII, *for* "the Company's provinces" *read* "Oudh;" and *omit* the words and figures ("under the rules prescribed by Regulation V, 1804.)"
XVII of 1806 ...	Redemption and foreclosure of mortgages.	*Omit* sections I to VI (both inclusive), and in section VII, the first sentence as far as the word "designation" and the concluding sentence. In section VII, *for* "within one year (Bengal Fassily or Willaity according to the era current where the mortgage may take place)" *read* "within one calendar year;" *for* "Zillah or City Court of Dewanny Adawlut" *read* "Deputy Commissioner;" *for* "Dewanny Adawlut of the Zillah or City" *read* "Court of the Deputy Commissioner or other officer having jurisdiction with reference to the value of the subject matter." In section VIII, *for* "preamble and preceding sections" *read* "preceding section;" *for* "Judge of the Zillah or City" *read* "Deputy Commissioner of the District," and *for* "Judge" *read* "Deputy Commissioner."
XX of 1810 ...	Military Bázárs.	
V of 1817 ...	Hidden Treasure ...	In section V, *for* "Board of Revenue" *read* "Chief Commissioner;" *for* "Judge" *read* "Deputy Commissioner." In section VI, *for* "Zillah or City Judge" *read* "Deputy Commissioner." In section VIII, *for* "Judge of the Zillah or City Court" *read* "Deputy Commissioner," and *omit* the words "on the application of the vakeel of Government under instructions from the Board of Revenue." In section IX, *for* "Judges of the Zillah Courts" *read* "Deputy Commissioners."
III of 1818 ...	State Prisoners ...	In section IV, *omit* clause *First*. In the same section, clause *Second*, *for* "Zillah or City Magistrate" *read* "Deputy Commissioner," and *for* "Judge of Circuit" *read* "Commissioner of Division." *Omit* section VIII, and the last twenty-five words of the preamble. In section IX, *for* "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut" *read* "and to the Judicial Commissioner."
VI of 1819 ...	Ferries	*Omit* section II.

Number and year.	Subject.	Modifications.
		Omit "or Joint Magistrates," "and Joint Magistrates" and "or Joint Magistrate," wherever they occur. In section I, *for* "subject to the Presidency of Fort William in Bengal" *read* "under the administration of the Chief Commissioner of Oudh," and *for* "Government" *read* "Chief Commissioner." In section III, clause *Second, omit* "by the Collectors, under the provisions of Regulation XIX, 1816." In the same section, clause *Third, for* "Superintendents of Police" *read* "Commissioners of Divisions," and *for* "Government" *read* "Chief Commissioner," and *add* "who shall fix the rates of toll to be levied at such ferries." In section IV, clause *First, omit* "for limiting the rates of toll to be levied at each ferry." In section V, *omit* "and in that of the Collector of the District." In section VI, clause *Second, for* "Superintendents of Police" *read* "Commissioners of Divisions," and *for* "Government" *read* "Chief Commissioner." In section VII, clause *First, omit* "they shall fix the rates of toll on a very moderate scale in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816." In the same section, clause *Third, for* "Government" *read* "Chief Commissioner," *for* "Bengal Fussily year according to the *era* current in the province" *read* "term of his lease." In the same section, clause *Fourth, for* "Magistrate and Collector," *read* "Deputy Commissioner," and *omit* "European." In section X, *omit* "from" and including the words "in the manner" down to the end of the section, and substitute "in the manner prescribed for recovery of arrears of revenue." In section XI, *for* "Magistrates reserve to themselves" *read* "the Chief Commissioner reserves to himself." In section XII, clause *First*, line one, *for* "Magistrate" *read* "Chief Commissioner," and in line four *omit* "said." In section XIII, *omit* the *Second* clause. In section XIV, *omit* the second sentence, and *for* "Superintendents of Police" *read* "Commissioner of Division."
XI of 1822 ..	Non-liability of Government for errors of a Court of Justice.	*Omit* the whole except section thirty-eight.
VI of 1825 ...	Supply of troops on the march.	In the preamble, *omit* the last twenty words. In section IV, *for* "Board of Revenue in whose jurisdiction the district may be situate" and "the Board" *read* "Commissioner." In section V, *omit* "on the stamped paper prescribed for other appeals to the Revenue Boards," and *for* "proper Board" and "the Board" *read* "Commissioner."
XI of 1825 ...	Alluvion and Diluvion ...	*Omit* section I. In section III, *omit* "either" and "or the sea."

Number and year.	Subject.	Modifications.
		In section IV, clause *First, omit* "whether" and "or of the sea," and *for* "the provisions of Regulation II, 1819, or of any other Regulation," *read* "any law in force for the time being;" clause *Third, omit* "or in the sea" and "or sea;" clause *Fifth, omit* "or the sea." In section V, *for* "Zillah and City Magistrates" *read* "Deputy Commissioners."
XX of 1825 ...	Military Courts of Requests	*Omit* sections I, III, and IV and section II, clause *Sixth*. In section II, clause *First, omit* from the beginning down to and including "provided that;" and *for* "His Majesty or of the Hon'ble East India Company" *read* "Her Majesty;" and *for* "not within the territories subject to the Presidency of Fort William or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency" *read* "within Oudh;" and *for* "a person attached to such body of troops in any of the capacities specified in sections XLV and LX of Statute IV, Geo. IV, cap. LXXXI," *read* "otherwise subject to the provisions of the Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force;" and *omit* "as directed in such cases in the Regulations abovementioned;" and *for* "Act of Parliament" *read* "the Mutiny Act for the time being in force." In the same section, clause *Third, for* "Act of Parliament" *read* "Mutiny Act;" and *for* "Magistrate of the Zillah or City" *read* "Deputy Commissioner." In the same section, clause *Fourth, for* "Zillah and City Magistrates" *read* "Deputy Commissioners;" and *omit* "of the nature described in section II of Statute IV, Geo. IV, cap. LXXXI" and "under the provisions of the said Act" and "under the provisions of the Regulations hitherto in force."

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Modifications.
XIII of 1857 ...	Opium	In preamble, *after* "the Presidency of Fort William in Bengal" *read* "and the territories under the administration of the Chief Commissioner of Oudh." In section II, *after* "Presidency of Fort William in Bengal," *read* "and the administration of the Chief Commissioner of Oudh." In section III, *omit* "being covenanted servants of the Company."
XL of 1858 ...	Minors	In the title, *for* "the Presidency of Fort William in Bengal" *read* "Oudh." In section II, *for* "estates paying revenue to Government" *read* "mahâls assessed to revenue or held revenue-free."

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 5, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th July 1876 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate and define the law relating to Land-Revenue in Oudh was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Endorsement, Department of Revenue, Agriculture and Commerce, No. 900 $\frac{L. R.}{8}$, dated 19th September 1872, forwarding—

Letter from Personal Assistant to Chief Commissioner, Oudh, No. 2779, dated 5th August 1872, and enclosures.

From Officiating Personal Assistant to Chief Commissioner, Oudh, No. 82, dated 10th January 1873, and enclosures.

From Officiating Secretary to Chief Commissioner, Oudh, No. 5208, dated 10th November 1875, and enclosures.

„ ditto ditto ditto, No. 5686, dated 14th December 1875, and enclosures.

„ ditto ditto ditto, No. 1850, dated 20th April 1876, and enclosures.

„ ditto ditto ditto, No. 1962, dated 28th April 1876, and enclosures.

Note by Hon'ble J. F. D. Inglis, dated 20th June 1876.

„ by Chief Commissioner, Oudh, dated 5th June 1876, and enclosures.

Office Memorandum from Department of Revenue, Agriculture and Commerce, No. 503, dated 11th July 1876, and enclosure.

Preliminary.

2. We have omitted as unnecessary the definitions of 'Chief Commissioner' and 'Estate,' and replaced them by definitions of 'incumbrance,' 'agricultural year,' 'revenue officer' and 'revenue-free.'

Revenue Officers.

3. In Chapter II relating to Revenue-officers, we have made the following changes: For sections 2, 3 and 4 of the Bill as introduced, we have substituted a section (4) declaring that, subject to rules prescribed by the Governor General in Council, the Chief Commissioner shall appoint Commissioners, Deputy Commissioners and Assistant Commissioners. We have authorized the Chief Commissioner to place any Assistant Commissioner of the first class in charge of one or more subdivisions, and to delegate this power to the Deputy Commissioner of the district. We have also empowered the Chief Commissioner, subject to rules prescribed by the Governor General in Council, to invest

any Assistant Commissioner in charge of a subdivision with the powers of a Deputy Commissioner. We think that Deputy Commissioners of the district and Assistant Commissioners in charge of subdivisions should be empowered to transfer cases to, and withdraw cases from, their subordinates, and we have introduced a section (10) for this purpose. We have provided (section 11) for the administration of a district in case of a temporary vacancy in the office of the Deputy Commissioner. We have, lastly, copied from Act XIX of 1873 the useful provision, that when an officer invested with powers in one district is transferred to an equal or higher office in another district, he shall be held to have the same powers in the latter district.

Settlement.

4. Section 14 of the Bill as introduced specified the documents of which the settlement record is to consist. We think it preferable merely to provide that the Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what those documents shall be.

5. We have declared (section 18) that every settlement shall be deemed to be in progress until its closing is duly notified, and that all districts in which settlements are now in progress shall be deemed to be under settlement for the purpose of that section.

6. We have transferred from the Oudh Civil Courts Act (XXXII of 1871) a section (20) empowering the Chief Commissioner to invest Settlement Officers with the powers of Civil Courts in suits relating to revenue-paying land.

7. We have declared (section 26) that in case of a taluqdárí mahál the settlement shall be made with the taluqdár.

8. We have provided (section 31) for the enforcement of the custom of periodical redistribution of land and adjustment of revenue.

9. We have expanded the provisions contained in the Bill as introduced, as to the exclusion of a taluqdár or proprietor refusing to accept settlement. We have provided (section 32) that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council; and we have raised the amount of the allowance to excluded proprietors.

10. We have directed (section 40) the Settlement Officer to determine the rent to be paid to the proprietor by under-proprietors and by holders of heritable, non-transferable leases, (other than tenants with right of occupancy,) whose rent has not been fixed by contract; and we have declared that whenever rent payable by such under-proprietors or lessees has been determined by a Settlement Officer, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

11. We have declared that all land shall be deemed liable to be charged with payment of revenue, and that no length of occupancy shall discharge such liability.

12. We have provided (section 46) for the alteration of assessment during the currency of a settlement, and (section 47) for the assessment of land added by alluvion. We have provided in the case of such land for the increase of a fixed rent in proportion to the increase of revenue effected by the assessment. Where the revenue assessed on a mahál has been reduced, remitted or suspended, we have declared (section 49) that the under-proprietor shall be entitled to a corresponding reduction, remission or suspension.

13. We have declared, in conformity with Regulation XIX of 1793 and other Regulations of the Bengal Code, that rent-free grants made by proprietors or the persons through whom they claim shall be liable to resumption except when such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner; but we have required proprietors wishing to resume such grants to apply to the Civil Court for a declaration of the right to resume, and we have exempted, wholly or partially, from the operation of these provisions, (*a*) land which the grantor has expressly agreed not to resume, (*b*) land held rent-free under a judicial decision, and (*c*) land held rent-free and acquired before the passing of the proposed Act, where the right to resume has been barred by the law of limitation. We have also provided (section 56) for fixing the rent of land declared liable to resumption.

Registration and the Revenue record.

14. We have provided (section 57), with more particularity than was thought necessary, for the lists and registers of rights in land to be prepared and maintained by the Deputy Commissioner on the basis of the settlement record. And we have declared that all entries in such lists or registers shall be made with reference to actual possession, and that all persons not in possession, but claiming the right to be so, shall be referred to the Civil Court.

15. We have required (section 62) all persons obtaining possession of land as proprietors, under-proprietors, lessees whose rents have been fixed by a Settlement Officer, or mortgagees, to give notice to the Tahsíldár or the Deputy Commissioner. And where the Deputy Commissioner cannot satisfy himself as to which party is in possession of any such land, we have required him to ascertain the fact by summary enquiry.

Partition and Union of Maháls.

16. We have inserted a chapter (V) dealing with the partition and union of maháls, which is founded on Act XIX of 1863—the law on this subject now in force in Oudh; but we have endeavoured to simplify the provisions of that Act. We have given an appeal within one year from the decision of the Deputy Commissioner confirming a partition. We have added definitions of 'perfect partition' and 'imperfect partition'. We have allowed any co-sharer to claim an imperfect partition, provided that the consent of recorded co-sharers holding in the aggregate more than a moiety of the property has been first obtained. We have provided for the partition of taluqdárí and under-proprietary maháls and of maháls held by lessees whose rent has been fixed by a Settlement Officer, subject to rules made by the Chief Commissioner as to when such partitions shall or shall not be permitted. In the case of the partition of a taluqdárí mahál, we have provided (section 101) for the assignment or partitioning of the inferior maháls and for duly limiting the joint responsibility of the co-sharers.

17. When the partition of a mahál in respect of which rent is payable is effected, we have directed the Deputy Commissioner to fix the amount payable in respect of each portion, and we have empowered the person entitled to such rent to obtain a decision as to his objections (if any) to the distribution of the rental.

Maintenance of Boundaries.

18. We have inserted a chapter (VI) on the maintenance of boundaries, the provisions of which correspond with those of Act I of 1847 and of sections 140—144 of Act XIX of 1873.

Collection of Land-Revenue.

19. In the chapter (VII) relating to the collection of land-revenue, we have made no substantial change, except that we have declared (section 117) that no person exempted from personal attendance in the Civil Court, no taluqdár and no female shall be subject to arrest or imprisonment, and we have provided that the Deputy Commissioner may realize as arrears of revenue all arrears of rent, due by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, in respect of land attached, or of which the settlement has been annulled.

20. We have inserted a section (135=section 28 of Act I of 1845) empowering the Chief Commissioner to direct a sale of land for arrears of revenue to be made subject to incumbrances.

21. We have provided (section 140) that such sales must be made either by the Deputy Commissioner or by an Assistant Commissioner specially appointed by him.

22. We have by section 159 entitled the proprietor of a mahál or pattí held in sub-settlement, or under a heritable, non-transferable lease, the rent payable under which has been fixed by a Settlement Officer, to apply to the Deputy Commissioner to realize the arrears of such rent as arrears of revenue.

Court of Wards.

23. We have transferred from the Oudh Laws Bill the chapter relating to the Court of Wards. In so doing we have extended the section relating to disqualified persons so as to apply to females deemed by the Chief Commissioner incompetent to manage their estates, to persons physically incapable of managing them, to persons convicted of non-bailable offences and disqualified by vice or bad character from managing their estates, and lastly, to persons declared by the Chief Commissioner on their own application to be disqualified. We have also declared (section 174) that persons whose property is under the superintendence of the Court of Wards, shall be incompetent, without the sanction of the Court, to create charges upon such property. We have provided for suits by and against disqualified proprietors, and we have inserted rules relating to managers equivalent to those contained in Act XIX of 1873, section 206. Lastly, we have, in section 177, amended Act XL of 1858 so as to render it applicable to all maháls, whether assessed to revenue or held revenue-free.

Powers of Officers.

24. Chapter IX is new. It deals with the powers of Assistant Commissioners, Settlement Officers and Assistant Settlement Officers, and is to some extent founded on sections 234 and 235 of Act XIX of 1873.

Appeals. Arbitration.

25. Chapter X deals with appeals, and Chapter XI with references to arbitration. Both are new. The latter is to a large extent taken from Act XIX of 1873.

Patwáris.

26. In section 208 it is provided that the Chief Commissioner may make rules respecting the appointment of Patwáris. This is not intended to preclude the free discussion of the claims of the taluqdárs to make such appointments, which is still under the consideration of the local authorities.

27. The publication directed by the Rules for the conduct of legislative business has taken place; but the Bill has been so altered that we think it should be re-published, with this report, in the *Gazette of India*, and also in the local Gazette, and that its further consideration should be stayed for two months.

JOHN INGLIS.
R. H. DAVIES.
A. HOBHOUSE.
E. C. BAYLEY.
T. C. HOPE.
F. R. COCKERELL.

SIMLA:
The 22nd July 1876.

No. II.

THE OUDH LAND REVENUE BILL, 1876.

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A Bill to consolidate and define the law relating to Land Revenue in Oudh.

Preamble. Whereas it is expedient to consolidate and define the law relating to land-revenue in Oudh; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Act may be called "The Oudh Land Revenue Act, 1876":

Local extent. It extends only to the territories now under the administration of the Chief Commissioner of Oudh;

Commencement. And it shall come into force on the passing thereof.

But all rules now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, continue in force until they are superseded by rules made in exercise of the powers hereinafter conferred.

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

"Incumbrance." (1) "incumbrance" means a charge upon or claim against land arising out of contract between private persons:

"Agricultural year." (2) "agricultural year" means a year commencing on the first day of July and ending on the thirtieth day of June:

"Revenue officer." (3) "revenue officer" means any officer empowered to dispose of any matter under this Act:

"Revenue-free." "Free of revenue." (4) "revenue-free" or "free of revenue" applies to land whereof the revenue has been wholly or in part released, compounded for, redeemed or assigned.

CHAPTER II.

REVENUE OFFICERS.

Chief Controlling Revenue Authority in revenue matters. **3.** The Chief Controlling Revenue Authority in all matters connected with land-revenue in Oudh shall be the Chief Commissioner.

Commissioners of Division. **4.** Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner shall—

(*a*) appoint in each Division a Commissioner, who shall, subject to the control of the Chief Commissioner, exercise authority over all the Revenue Officers in his Division;

Deputy Commissioner of the District. (*b*) appoint in each district an officer who shall be the Deputy Commissioner of the District;

Assistant Commissioner. (*c*) appoint to each district as many other persons as he thinks fit to be Assistant Commissioners of the first or of the second class.

Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner may suspend or remove any officer appointed under this section.

Subordination of Assistant Commissioners and other Revenue Officers.

5. All such Assistant Commissioners, and all other persons employed in maintaining revenue-records or otherwise in or about the business of the land-revenue, shall be subordinate to the Deputy Commissioner of the District.

Assistant Commissioner in charge of Sub-division of District.

6. The Chief Commissioner may place any Assistant Commissioner of the first class in charge of one or more Sub-divisions of a District, and may at any time remove him therefrom.

Such Assistant Commissioner shall be called an Assistant Commissioner in charge of a Sub-division of a District, and shall exercise the powers and discharge the duties conferred and imposed upon him by this Act or by any other law for the time being in force, subject to the control of the Deputy Commissioner of the District.

The Chief Commissioner may, from time to time, delegate his powers under this section to the Deputy Commissioner of the District, and may revoke such delegation.

Power to invest certain Assistant Commissioners with powers of Deputy Commissioner.

7. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer on any Assistant Commissioner in charge of a Sub-division of a District all or any of the powers of a Deputy Commissioner; and all powers so conferred shall be exercised subject to the control of the Deputy Commissioner of the District.

Subordination of Revenue Officers.

8. Every officer of a Sub-division of a District employed in maintaining revenue-records or otherwise in or about the business of the land-revenue shall be subordinate to the Assistant Commissioner (if any) in charge of such Sub-division, subject to the general control of the Deputy Commissioner of the District.

Conferring of powers.

9. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer upon any person all or any of the powers of an Assistant Commissioner of the first or of the second class, and may, in conferring those or any other powers under this Act, empower persons by name, or classes of officials generally by their official titles,

Power to vary and cancel orders conferring powers.

and may vary or cancel any order conferring powers under this Act.

Transfer of cases to subordinates.

10. The Deputy Commissioner of the District, or any Assistant Commissioner in charge of a Sub-division of a District, may make over any case, or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision, from his own file to any of his subordinates competent to deal with such case or class,

or may withdraw any such case, or class of cases

Power to withdraw cases from subordinates.

from any Revenue Officer subordinate to him, and may deal with such case or class himself, or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Deputy Commissioner of the District in case of temporary vacancy.

11. If the Deputy Commissioner of the District dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the District in revenue matters shall be held to be the Deputy Commissioner of the District under this Act until the Chief Commissioner appoints a successor to the Deputy Commissioner so dying or disabled, and such successor takes charge of his appointment.

Powers of officers transferred to another district.

12. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers in the District to which he is so transferred.

Appointment of Tahsíldárs.

13. Tahsíldárs shall be appointed by the Chief Commissioner, subject to such rules as to qualification or otherwise as the Chief Commissioner may from time to time make under section 208.

CHAPTER III.

SETTLEMENT.

Notification as to settlement.

14. Whenever the Chief Commissioner thinks that any District or other local area liable to be brought under settlement should be so brought, he shall, with the previous sanction of the Governor General in Council, publish a notification to that effect.

Notification as to settlement record.

And if he thinks that a settlement record should be prepared for any District or other local area, he shall, with the like sanction, publish a notification to that effect.

Chief Commissioner to issue rules as to mode of assessment.

15. The Chief Commissioner shall, from time to time, with the previous sanction of the Governor General in Council, frame and issue rules regarding the mode in which the revenue demand in respect of any local area is to be assessed; and may from time to time make rules prescribing the manner in which Settlement Officers shall report for sanction the rates and method of assessment and the amounts they propose to assess.

Settlement record.

16. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what documents shall form the settlement-record, and frame and issue rules regarding (*a*) the mode in which such record is to be prepared, (*b*) the facts to be therein entered, and (*c*) the manner in which the entries shall be attested.

The Chief Commissioner may from time to time, with the same sanction, alter such rules.

Presumption as to entries in settlement record.

17. Every entry in such settlement record duly made and attested shall, until the contrary is proved, be presumed to be a correct record of the fact entered.

Settlement to be deemed in progress until closing notified.

18. Every local area shall be held to be under settlement from the date of any notification published under section 14, and relating thereto, until the issue of another notification declaring settlement operations to be closed therein.

Settlements now in progress brought under operation of Act.

Every local area under settlement at the time of the passing of this Act shall be held to be under settlement within the meaning of this section without the issue of either of the notifications prescribed by section 14.

Appointment and powers of Settlement Officers.

19. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, appoint an officer to be in charge of the settlement of any local area and as many Assistant Settlement Officers as the Chief Commissioner thinks fit; and such officers shall exercise the powers conferred on them respectively under this Act so long as such area is under settlement.

Power to invest Settlement Officers with powers of Civil Courts in certain cases.

20. In any local area in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the previous sanction of the Governor General in Council, may by order confer on any officer making or controlling such settlement the powers of a Civil Court of any specified grade for the purpose of trying suits and appeals, or any specified class of suits and appeals, relating to property in land assessed or assessable to revenue, in such District, and may revoke any such order; and so long as such order remains in force the jurisdiction of the Civil Courts of the same grade shall be excluded in respect of such suits and appeals.

Power to transfer cases from Settlement Officers to Civil Courts.

21. Notwithstanding the existence of any such order, the Chief Commissioner may from time to time direct that any cases pending before the Settlement Officers invested with the powers mentioned in section nineteen, shall be transferred to the ordinary Civil Courts of the District if the state of business in his opinion requires such transfer.

Trial of suit relating to land and to other property.

22. If a suit relating as well to such land as other property be instituted before any officer so invested, he shall make a reference regarding the disposal of such suit to the Commissioner of the Division in which the District wherein the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Powers of Settlement Officers as to erection of boundary-marks and decision of disputes.

23. When any local area is under settlement, the Settlement Officer shall have power to call upon all proprietors, by proclamation to be stuck up in some conspicuous place in each village, to erect within fifteen days such boundary-marks as he may think necessary to define the limits of their villages, mahals or fields; and in default of their compliance within the time specified in the notice, he may cause such boundary-marks to be erected, and he shall recover the cost of such erection from the proprietors as if it were an arrear of land-revenue.

In case of dispute concerning any boundary-marks, the Settlement Officer shall decide such dispute on the basis of possession, or may refer it to arbitration, for decision on the merits as provided for in sections 192 to 203, both inclusive.

Power of Settlement and Survey Officers to do necessary acts.

24. All Settlement Officers, and all officers in charge of a survey made in connection with the revenue, and their assistants, servants, agents and workmen, may do all acts necessary for any purpose connected with the settlement or survey, as the case may be.

Power to require attendance of persons concerned, and production of documents.

25. The Settlement Officer may order all persons whose presence is, in his opinion, necessary for any of the purpose of this chapter, to attend at any specified time and place, and to produce any written document in their possession or power; and all such persons shall be legally bound to obey such order.

With whom settlement to be made.

26. The settlement shall be made in the case of a taluqdárí mahál with the taluqdár, and in the case of other mahals with the proprietor of the mahál;

or if there are two classes of proprietors, superior and inferior, with either of such classes as the Chief Commissioner directs,

or if the taluqdár or proprietor has transferred possession of his mahál to a mortgagee or conditional vendee, then with such mortgagee or vendee.

Settlement of estate in possession of lunatic or minor.

If, at the time of settlement, a mahál, or any share thereof, be in the possession of a lunatic, minor or other person incapable of making a contract, the settlement shall be made on his behalf with his guardian or with the manager of his property.

Power to make joint settlement with several proprietors or their elected representatives.

27. When several persons are in possession of a mahál, not being a taluqdárí mahál, the Settlement Officer shall have power to make a joint settlement with all such persons, or with their representatives.

Framing and reporting general proposals of assessment.

28. The Settlement Officer shall, in accordance with the rules made under section fifteen, frame general proposals of assessment for any local area or any portion thereof regarding which a notification has been published under the first clause of section fourteen, and shall report such proposals through the Commissioner of the Division to the Chief Commissioner.

Detailed assessment and declaration thereof to persons concerned.

29. After the receipt of the orders of the Chief Commissioner thereon, and subject to such orders, the Settlement Officer shall ascertain the amount of the assessment proper for each mahál in such area, and shall declare the same to the person with whom the settlement of such mahál is to be made.

If any mahál in any such area comprise two or more villages, or portions of villages, the Settlement Officer shall declare the assessment due on each of such villages or portions of villages, together with the aggregate amount of the assessment proper in his opinion for the whole mahál.

Such declaration shall be made on a date to be notified by proclamation at the tahsil in which such mahál is situate.

30. If the persons with whom the settlement of such mahál is to be made agree to the assessment so proposed, they and those (if any) whom they represent in interest shall become liable from the date of such agreement, or from such subsequent date as the Chief Commissioner directs, to pay such assessment in respect of such mahál.

Effect of agreement to assessment proposed.

and in a mahál in which the land, or part of the land is held in severalty, the Settlement Officer shall distribute such assessment on the lands so held.

Distribution of assessment.

31. In any mahál where, by the established custom, the land or the amount of revenue payable by each co-sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of one or more of the co-sharers, enforce such re-distribution or re-adjustment according to such custom.

Enforcement of custom as to re-distribution of land and adjustment of revenue of shares.

32. If the person to be settled with be a taluqdár and such taluqdár refuse to accept the assessment offered by the Settlement Officer in respect of his entire taluqá, or in respect of any portion thereof, or if, within thirty days from the date of the declaration by the Settlement Officer under section 29, such taluqdár fail to accept such assessment, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner,

Exclusion of taluqdár declining or failing to accept settlement.

The Chief Commissioner, after hearing and considering the reasons which the taluqdár may have to urge against the assessment, may direct that the taluqdár so refusing or failing be excluded from the settlement of his entire taluqá, or of any portion thereof, for such term not exceeding fifteen years from the date of such direction, as the Chief Commissioner shall fix; and the Settlement Officer or Deputy Commissioner shall either farm the taluqá or any portion thereof or hold it under direct management during such term, or any part thereof: provided that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council.

33. If a taluqdár be excluded from the settlement of any portion of his taluqá, and if such portion be held in sub-settlement by an under-proprietor, the farm of such portion shall be offered to such under-proprietor on such terms as the Chief Commissioner may in each case direct.

Offer of farm to under-proprietor.

34. If such under-proprietor accept the assessment so offered, the taluqdár so excluded shall be entitled to an allowance out of the profits of such portion to be fixed by the Chief Commissioner not exceeding the share of the gross assets, if any, to which he would have been entitled had he accepted the assessment.

Allowance to excluded taluqdár.

In other cases, the taluqdár so excluded shall (subject to the orders of the Chief Commissioner) be entitled to an allowance out of the profits of such portion of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

35. In a mahál other than a taluqdárí mahál, if the person to be settled with refuse to accept the assessment offered by the Settlement Officer, or fail to accept such assessment within thirty days from the date of the declaration by the Settlement Officer under section 29, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner,

Exclusion of person declining or failing to accept settlement in a mahál.

and the Chief Commissioner may direct that the person so refusing or failing be excluded from the settlement for such term not exceeding fifteen years from the date of such direction, as the Chief Commissioner thinks fit,

and the Settlement Officer or the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either farm the mahál or hold it under direct management during such term or any part thereof.

In such case the person so excluded shall be entitled (subject to the orders of the Chief Commissioner) to an allowance out of the profits of the mahál, of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

Allowance to person excluded.

36. If in a mahál held on a pattídárí or imperfect pattídárí tenure any of the co-sharers refuse or fail within thirty days from the date of the declaration by the Settlement Officer under section 29 to accept the proposed assessment, the shares of such co-sharers shall be dealt with under the provisions of section 35, and they shall receive an allowance, as provided in that section, in proportion to their respective shares in the mahál.

Procedure in case of some of several proprietors refusing assessment.

If the Settlement Officer farms any share in such mahál, the farm of such share shall be offered in the first instance to those co-sharers who have accepted the proposed terms.

Farm of shares of proprietors refusing.

37. Any proprietor excluded from settlement under sections 35 and 36 shall be entitled to hold as a tenant with a right of occupancy so much of the land in the mahál actually cultivated by him as the Settlement Officer may determine, and the rent to be paid by such proprietor for such land during such exclusion shall be fixed by the Settlement Officer at the rate which would have been paid by a tenant-at-will for the said land less four annas in the rupee.

Adjustment of rent of the sir land of proprietors of mahál farmed under section 35 or 36.

38. The aggregate amount of any allowance assigned under section 35 or section 36 to any proprietor of a mahál who has been excluded from settlement, and of the difference between the rent fixed under section 37, and the rent which he would be liable to pay if he were a tenant-at-will,

Amount of allowance assigned under section 35 or 36 to excluded proprietor, and of difference between rent fixed under section 37, and rent payable by him if he were a tenant-at-will.

shall not be less than five or more than fifteen per cent. on the amount proposed by the Settlement Officer to be assessed on such mahál.

39. On the expiration of the term fixed under section 32 or section 35, the settlement of such mahál portion, or share comprised therein shall be offered by the Deputy Commissioner to the person then entitled to be settled with in respect of such mahál portion or share, at such assessment for the remainder of the term of settlement of the District as the Chief Commissioner may direct.

Offer of settlement to excluded proprietor on expiry of term of exclusion.

And if such person refuse to accept the offer, the Deputy Commissioner shall report such refusal through the Commissioner of the Division to the Chief Commissioner, and such person may be excluded from settlement for such period not exceeding the term of the settlement of the District, as the Chief Commissioner may direct, and the provisions of sections 32 to 38 (both inclusive) shall, so far as may be applicable, apply to his case.

Procedure on refusal.

40. The Settlement Officer shall, in accordance with the provisions of the Oudh Sub-settlement Act, 1866, so far as they are applicable, determine the rent to be paid to the proprietor by all under-proprietors in a mahál and by all holders of heritable, non-transferable leases, whose rent has not been fixed by contract.

Determination of rent payable to proprietor.

When the rent is so determined the co-sharers may at their option agree with the Settlement Officer that the rent shall be paid either by them collectively or by one of them on behalf of himself and the others. Whenever, whether before or after the passing of this Act, rent payable by such under-proprietors or lessees has been determined by a Settlement Officer, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

Nothing in this section applies to rent payable by a tenant with a right of occupancy.

41. All land shall be deemed liable to be charged with the payment of revenue to Government, unless some competent authority has declared it exempt from such payment. And no length of occupancy of any land, nor any grant of land made by the proprietor, shall release such land from such liability.

Saving of liability for Government revenue.

42. The Settlement Officer shall enquire into the case of all lands released, conditionally or for a term, from the payment of revenue, and shall assess such lands if it appear to him that the conditions have been transgressed or the term has expired.

Inquiry into cases of land released from payment of revenue.

43. Every settlement shall be made subject to confirmation by the Governor General in Council.

Confirmation of settlement.

44. The Governor General in Council shall, at some time before confirming the settlement, fix the period for which the settlement is to be made. Such period shall be fixed with reference to the agricultural year.

Period for which settlement is to be made.

45. The assessment of any mahál may be revised at any time before it is confirmed by the Governor General in Council, and in such case the revised assessment shall be proposed to the proprietors of such mahál, and the provisions of sections 23 to 40 (both inclusive) shall apply.

Revision of assessment before confirmation.

Alteration of assessment during the currency of a Settlement.

46. The Deputy Commissioner shall enquire annually into the cases of all land released from the payment of revenue conditionally, or for a term, or for the life of the grantee.

Annual enquiry as to revenue-free grants.

If the condition be broken, he shall report the case through the Commissioner of the Division to the Chief Commissioner for orders,

and if the term has expired, or (where the grant is for the life of the grantee) if the grantee has died, the Deputy Commissioner shall assess the land comprised therein, and shall report his proceedings through the Commissioner of the Division to the Chief Commissioner for sanction.

47. All land added by alluvion to a mahál is liable to assessment. Such land may be assessed and settled under rules to be framed under section 208.

Assessment of land added by alluvion.

48. Where such land is held by an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such rent shall be increased proportionately to the increase of revenue effected by such assessment.

Proportionate increase of rent payable by under-proprietor.

49. Where for any cause the revenue assessed on a mahál has, by order of the Chief Commissioner, been reduced or been wholly or in part remitted or suspended, and the land on account of which the revenue has been so reduced, remitted or suspended is in the possession of an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such under-proprietor or lessee shall be entitled (where the revenue has been reduced or remitted) to a proportionate reduction or remission of the rent payable by him in respect of such land, or (where the revenue has been suspended) to a suspension of the payment of such rent for the time during which the revenue has been so suspended.

Proportionate reduction or remission of rent payable by under-proprietor or lessee.

50. Assessments under sections 46 and 47 shall be made by the Deputy Commissioner in the same manner and with the same powers as if he were an officer in charge of a settlement.

Deputy Commissioner to have powers of officer in charge of settlement.

51. At any time during the currency of a settlement, the Chief Commissioner may, with the previous sanction of the Governor General in Council, invest any officer with all or any of the powers of an officer in charge of a settlement under this Act within such limits, and with such restrictions, and for such period as he thinks fit;

Power to invest officer with Settlement Officer's powers.

but not so as to enable him to enhance the total amount of revenue payable on account of any

mahál except in respect of land added thereto or becoming liable to payment of revenue since the confirmation of the settlement.

Resumption of rent-free grants.

52. All grants (whether in writing or otherwise) by proprietors or the persons whom they represent of land to be held exempt from the payment of rent are hereby declared to be liable to resumption, unless such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner.

Liability of rent-free grants to resumption.

53. Provided that grants of land held under a written instrument (whether executed before or after the passing of this Act) by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid against him (but not as against his representatives after his death) during the continuance of the settlement of the District in which the land is situate which was current at the date of the grant.

Grants under certain instruments.

54. Proprietors wishing to resume grants made by themselves or the persons whom they represent shall apply by petition to the principal Court of original civil jurisdiction of the District in which the land is situate for a declaration of the liability of the grant to resumption.

Application for declaration of such liability.

The Court shall cause notice of such application to be served on the grantee, and shall fix a day for hearing his objections (if any) to the declaration; and thereupon, after considering such objections (if any), may either dismiss the application with or without costs to be paid by the applicant, or declare that the grant is liable, in whole or in part, to resumption.

55. Nothing in section 52, section 53, or section 54 applies to either of the following cases:—

Exemptions from sections 52, 53 and 54.

(*a*) where land is held rent-free under a judicial decision;

(*b*) where previously to the passing of this Act, land held rent-free has been acquired for a valuable consideration and the right to resume it has been barred by the law of limitation.

56. The amount of rent payable in respect of land which has been declared by a Civil Court liable to resumption shall, when the district in which the land is situate is under settlement, be determined by the Settlement Officer and in every other case by the Deputy Commissioner of the District.

Rent of land declared liable to resumption.

CHAPTER IV.

REGISTRATION, INCLUDING THE PREPARATION AND MAINTENANCE OF REVENUE RECORDS.

57. The Deputy Commissioner of the District shall, on the basis of the settlement record, and in accordance with such rules as the Chief Commissioner from time to time prescribes in this behalf, prepare the following lists and registers:—

Lists and registers to be prepared by Deputy Commissioner.

(*a*) A list of all the villages in each pargana or tahsíl of his District;

The pargana register.

(*b*) A list of all the revenue-paying mahals in each pargana or tahsíl, shewing the revenue assessed on each mahál, and the name of the person responsible for its payment whether as sole proprietor or as lambardár;

The málguzárí register.

(*c*) A register of all the co-sharers in each mahál with the nature and extent of the interest of each co-sharer;

The khewat.

(*d*) A register of all mahals in which the rent of any under-proprietor or lessee has been fixed by the Settlement Officer, the names of all the co-sharers in such mahals, together with the nature and extent of the interest of such co-sharers.

Register of sub-settled mahals with khewat.

(*e*) For each mahál a list—

Register of under-proprietary and other tenures.

(1) of all under-proprietors and lessees whose rent has been so fixed, and of all tenants with a right of occupancy, with the nature and extent of the interest of each such person, and the rent (if any) which he is liable to pay therefor,

(2) of all other persons (if any) holding land free of rent, or revenue free.

(*f*) A register—

Register of revenue-free tenures.

(1) of all land in his District held revenue free, with the names of the holders, and the conditions of the grant under which they hold,

(2) of all land declared by competent authority to be waqf or nazul, or the property of the State.

(*g*) A register of all mahals on which a málikána allowance has been sanctioned by competent authority, with the names of the persons entitled to such allowance, the amount of such allowance, and the conditions under which it was given.

The málikána register.

(*h*) A register of all jungle-grants, the names of the grantees, and the conditions of the grants.

Register of jungle-grants.

58. In the preparation of the said lists and registers, the Deputy Commissioner shall correct any errors in the settlement records which the parties interested admit to have been made therein; and any dispute arising regarding any entry in such record shall be investigated and decided on the basis of actual possession; and all persons not in possession, but claiming the right to be so, shall be referred to a Court of competent jurisdiction, except where the claim is founded on the decision of such Court, and in such case the entry shall be in accordance with such decision.

Correction of errors in settlement record.

59. The Deputy Commissioner shall keep and maintain the said lists and registers,

Deputy Commissioner to keep the lists and registers.

and he shall from time to time cause to be registered all events and transactions affecting any of the rights or interests recorded in the said registers, to such extent as the Chief Commissioner may from time to time prescribe.

60. The Chief Commissioner shall prescribe the forms in which the lists and registers mentioned in section 57 are to be prepared,

Forms of lists and registers.

and the manner in which, the persons by whom, and the occasions on which, the alterations referred to in section 58 and section 59 are to be recorded.

61. The Chief Commissioner may prescribe proper fees for alteration in the lists and registers formed under the said rules: Provided that no fee for a single alteration shall exceed one hundred rupees.

Power to prescribe fees for mutations.

Such fee shall be levied from the person in whose favour the mutation is made, and shall be expended in such manner as the Chief Commissioner thinks fit.

Levy of fees.

Fees how spent.

62. All persons obtaining the possession of land or the profits thereof, whether by succession, purchase or other form of transfer, as proprietors or under-proprietors, or as lessees whose rents have been fixed by a Settlement Officer, or as mortgagees, shall give notice of the same immediately after it has taken place to the tahsíldár of the tahsíl in which the mahál to which such land belongs is situated, or to the Deputy Commissioner of the District.

Notice of transfer of possession.

If the notification be made to the tahsíldár, that officer shall report such notice to the Deputy Commissioner.

63. The Deputy Commissioner on receiving such notice or report shall make such enquiry as the Chief Commissioner may from time to time prescribe to ascertain the fact of the alleged transfer of the property, and if the transfer appears to have taken place, he shall, subject to the rules framed by the Chief Commissioner under section 208, record the same in the appropriate register:

Enquiry as to truth of transfer.

Provided that no such entry shall be held to affect the rights of any other person who may claim and establish in any Court of competent jurisdiction any interest in the land to which the entry has reference.

64. If the person so succeeding is a minor or otherwise under disability, the guardian or other person who has charge of his property shall give the notice required by section 62.

Notification in case of minority or other disqualification.

65. Any person neglecting to give the notice prescribed in section 62 within three months from the date of the occurrence of the fact to be notified, shall be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section 61.

Fine for neglect to notify.

66. If in the course of enquiry made under section 63, a dispute regarding the possession of the property arises, and the Deputy Commissioner is unable to satisfy himself as to which party is in possession, he shall ascertain by summary enquiry who is the person *primâ facie* entitled to the property and shall put such person in possession, and make the necessary entry in the record accordingly, subject to any order that may be subsequently passed by the Civil Court.

Power to put one party in possession in certain cases of dispute.

67. When any person obtains possession of land or of the profits thereof, for any interest other than those referred to in section 62, the transfer of such possession shall be recorded by the Kánúngo and patwárí in such manner as the Chief Commissioner from time to time directs;

Registry of transfers of interests in land other than those referred to in section 62.

and all disputed cases shall be reported to the Deputy Commissioner or Assistant Commissioner, who shall make such enquiry as may be necessary to ascertain the fact of the alleged transfer, and cause the record to be amended accordingly.

Enquiry in disputed cases.

68. All registers prepared under the preceding sections of this chapter shall be deemed to be public documents and the property of Government, and shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Chief Commissioner may from time to time prescribe.

Inspection of registers.

CHAPTER V.

PARTITION AND UNION OF MAHALS.

69. Partition is either perfect or imperfect.

Partitions.

'Perfect partition' means the division of a mahál into two or more mahals, severally responsible for the revenue assessed on each.

'Perfect partition.'

'Imperfect partition' means the division of any mahál, or of any portion of a mahál, into two or more portions jointly responsible for the revenue assessed on the whole mahál.

'Imperfect partition.'

70. Any recorded co-sharer in a mahál and any person in whose favour a decree has been passed by any Civil Court, awarding to him the proprietary right in a portion of a mahál, whether such portion consists of a fractional share in the whole or a part of the mahál, or of specific lands, is entitled to claim perfect partition of his share.

Persons entitled to perfect partition.

Any two or more recorded co-sharers may claim that their shares be divided from the other shares by a perfect partition, and be held by them as a single mahál.

If any recorded co-sharer be under disability, the person in possession of his property shall, for the purpose of this section, be deemed to be a recorded co-sharer.

71. Applications for perfect partition are to be made in writing to the Deputy Commissioner of the district in which the mahál is situated;

Application for perfect partition.

and shall be accompanied by a certified copy of the record, showing the share held by the applicant in the mahál:

Provided that, if the mahál be situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner any direct.

Provision as to estates situated in more than one district.

72. The Deputy Commissioner, on receiving an application for partition shall, if the application be in order and not open to objection on the face of it, publish a notification of the same at his office, and at some conspicuous place in the mahál to which the application relates,

Notification of application.

and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection, either in person or by a duly authorized agent, on a day to be specified in the notice, not less that thirty, or more than sixty, days from the date on which such notice was issued.

Notice to co-sharers not joining.

73. Where, from any cause, notice cannot be personally served on any co-sharer, the notification so published shall be deemed sufficient notice.

Notification when alone sufficient.

74. If, on or before the day so specified, any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Power to refuse partition when objection admitted.

75. If the objection raises any question of title, or of proprietary right, which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or he may proceed to enquire into the merits of the objection.

Procedure if question of title be raised.

In the latter case the Deputy Commissioner after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of chapter VI (relative to arbitrators) of the same Code shall apply to such references.

Procedure in such cases.

Reference to arbitration.

76. All orders and decisions passed by the Deputy Commissioner under the last preceding section, for declaring the rights of parties, shall be held to be decisions of a Court of civil judicature of first instance, and shall be open to appeal under the provisions of the Oudh Civil Courts Act.

Deputy Commissioner's decision equivalent to decision of Civil Court.

Appeal thereupon.

Upon such appeal being made, the appellate Court may issue a precept to the Deputy Commissioner, desiring him to stay the partition, pending the decision of the appeal.

Appellate Court may stay partition.

77. When it has been decided to make a partition under this chapter, the Deputy Commissioner shall either give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he shall make the partition himself or cause it to be made by any Assistant Commissioner subordinate to him, and when made by an Assistant Commissioner, it shall be reported to the Deputy Commissioner for his confirmation.

Option to make partition themselves or to appoint arbitrators.

78. If arbitrators are appointed, the provisions of sections 192 to 203, both inclusive, shall apply.

Partition by arbitrators.

In making a partition, arbitrators shall not be bound by the provisions of sections 81 to 84 both inclusive; but they shall deliver a full and complete paper of partition, specifying the separate mahálsinto which they propose that the mahál shall be divided; the names of the parties to whom the several mahálsare proposed to be allotted, and the amount of land revenue which in the opinion of the arbitrators should be assessed on each of such mahálsi.

79. In making partitions, the Deputy Commissioner, and any person appointed by him, shall have the same powers to enter on the land under partition, for marking out the boundaries, surveying the mahál, and other purposes, as are conferred on Settlement Officers under this Act.

Power to enter on land for purposes of partition.

80. When a Deputy Commissioner has decided that a partition shall be made, he may, with the sanction of the Commissioner, hold the mahál under direct management, pending the completion of the partition.

Power to hold mahál under direct management, pending partition.

The provisions of the law in force for the time being, for the management of mahálsheld under direct management for arrears of revenue shall be applicable to mahálsi, the management of which is assumed under this section.

The collections of the mahál shall be applied to the payment of the Government revenue, and, after defraying the expenses of management and any other expenses with which the mahál is chargeable, the residue shall be divided amongst the recorded co-sharers in proportion to their respective shares at such periods as the Deputy Commissioner may see fit.

81. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate mahál, and shall be separately assessed to the Government revenue.

Partition of lands held only in severalty.

82. Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of such lands in accordance with village custom, if any such exist.

Partition of lands some of which are held in common.

If no such custom exist, the Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

83. The portion of the common lands falling by such partition to the share of the applicant shall be added to the land held by him in severalty, and the mahálsthus formed shall be assessed and declared separate mahálsi.

Formation of separate mahálsfrom shares allotted in partition.

84. In making partitions under this Act, the Deputy Commissioner shall give effect to any transfer of lands held in severalty and forming part of the mahál, which has been agreed to by the parties, previous to the declaration of the partition.

Transfers to be effectuated in making partition.

85. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the mahál.

Partition where all lands are held in common.

86. In all cases each mahál shall be made as compact as possible: Provided that, except with the sanction of the Chief Commissioner, no partition be disallowed solely on the ground of incompactness.

Estate to be compact.

87. If in making the partition it be necessary to include in the mahál assigned to one sharer, the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with the buildings thereon (if any) on condition of his paying a reasonable ground-rent therefor to the sharer into whose portion it may fall.

Rule when dwelling-house of one sharer is included in mahál assigned to another.

The limits of such land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

88. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Rule as to tanks, wells, water-courses and embankments.

Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the mahálsi into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each mahál may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived form such works, shall be divided.

89. Places of worship and burial-grounds, held in common previous to the partition of a mahál, shall continue to be so held, unless the persons who so held them otherwise agree among themselves.

Rules as to places of worship and burial-grounds.

In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

90. In all cases whether partition has been made by arbitrators or otherwise, the amount of revenue to be paid in respect of each portion of a mahál partitioned under this chapter shall be determined by the Deputy Commissioner, provided that the aggregate revenue payable in respect of the new mahálsi shall not exceed the revenue assessed on the mahál immediately before partition;

Determination of revenue payable by each division of a mahál.

and the proprietor of each new mahál shall be held liable for the portion of the revenue assessed on his mahál, whether a new engagement be taken from him or not.

Liability of proprietors.

91. If at any stage of any proceedings under this chapter there appears to be any reason for stopping the partition, the Deputy Commissioner may of his own motion, or on the report of the Assistant Commissioner making the partition, stay the partition and order the proceedings to be quashed.

Power to stay partition.

92. A partition, whether made by the Deputy Commissioner himself or otherwise, shall not be deemed to be complete unless the Deputy Commissioner has made an order confirming it.

Order confirming partition.

On making such order, he shall publish a notification of the fact at his office and at some conspicuous place in each of the new mahálsi,

Notification of order.

and the partition shall take effect on and from the first day of July next after the date of such notification.

Partition when to take effect.

93. An appeal against the decision of the Deputy Commissioner confirming a partition, shall lie to the Commissioner of the division within one year from the date on which such partition takes effect.

Appeal to Commissioner from orders of Deputy Commissioner.

94. Where the land-revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the land-revenue upon the several mahálsi into which the mahál has been divided, on an estimate of the assets of each mahál at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

95. Imperfect partition shall be carried out according to the provisions of sections 70 to 93 (both inclusive) so far as they are applicable: Provided that no application for imperfect partition shall be entertained unless the consent of recorded co-sharers holding in the aggregate more than one moiety of the property of which partition is sought be first obtained.

Making of imperfect partitions.

96. No Civil Court shall entertain any suit or application for perfect or imperfect partition.

Civil Courts barred from entertaining applications for partitions.

97. All imperfect partitions and all partitions perfect or imperfect of under-proprietary mahálsi hitherto made, shall be deemed to have been made under the provisions of this Act.

Previous imperfect partitions and partitions of under-proprietary mahálsi.

98. If two or more revenue-paying mahâls have originally formed portions of the same village, the proprietor shall be entitled to have such mahâls united and to hold them as a single mahâl.

Union of mahâls originally part of same village.

99. Every application for the union of such mahâls shall be made in writing to the Deputy Commissioner of the district in which the mahâls are situate.

Application for such union.

If the Deputy Commissioner see no objection, he shall comply with the application, and cause the necessary entries to be made in the register of his office, reporting the case to the Commissioner of the division.

Application how dealt with.

100. The provisions of this chapter, so far as they are applicable, may be applied by order of the Deputy Commissioner to the partition or union of mahâls held free of revenue.

Partition or union of revenue-free mahâls.

101. The partition of taluqdârî and under-proprietary mahâls and of mahâls held by lessees whose rent has been fixed by the Settlement Officer, shall be carried out accordingly to the provisions of sections 70 to 94 (both inclusive), so far as they are applicable.

Partition of taluqdârî and under-proprietary mahâls.

(*a*) In the partition of taluqdârî mahâls, all mahâls, whether under-proprietary or held by lessees whose rent has been fixed by the Settlement Officer shall, if practicable, be assigned to one or other of the new taluqâs to be formed by the partition;

Assignment of inferior mahâls.

(*b*) if any such mahâl cannot be assigned in whole, the assignment shall be made by thoks, pattîs or other existent sub-divisions;

(*c*) and if no other satisfactory arrangement can be made, such mahâl shall be partitioned;

(*d*) in cases in which one portion of any such mahâl is assigned to one taluqá and another portion to another taluqá, each portion shall be deemed a separate mahâl, the joint responsibility of the co-sharers being limited to such portion.

102. Whenever a partition of a mahâl in respect of which rent is payable is effected under this Act, the amount of rent to be paid in respect of each portion shall be determined by the Deputy Commissioner, and the person to whom such rent is payable may present an application in writing to the Deputy Commissioner objecting to the distribution of the rental over the several parts into which the mahâl has been divided, and praying that such objection may be heard and determined; and his objection shall be heard and determined, and the Deputy Commissioner shall record his reasons for such determination.

Objection to distribution of rental.

CHAPTER VI.

MAINTENANCE OF BOUNDARIES.

103. The Deputy Commissioner and his subordinates shall have power to enter upon and survey land, and to demarcate the boundaries of mahâls, villages and fields.

Power of Deputy Commissioner to enter and survey.

104. All owners of mahâls, villages or fields, are bound to maintain and keep in repair at their own cost the boundary-marks lawfully erected thereon.

Obligations of owners as to boundary-marks.

105. Any person convicted before a Deputy Commissioner of wilfully erasing, removing or damaging any such boundary-mark, may be ordered by the convicting officer to pay such sum not exceeding fifty rupees for each mark so erased, removed or damaged, as may be necessary to defray the expense of restoring such mark, and of rewarding the informer (if any) through whom the conviction was obtained.

Payment for erasing, removing or injuring marks.

106. Whenever the person erasing, removing or damaging any such mark cannot be discovered, or if for any other reason the sum which he has been so ordered to pay cannot be recovered, the mark shall be re-erected or repaired at the charge of the owner or owners of such one or more of the conterminous field or mahâls as to the Deputy Commissioner seems fit.

Who is to be charged for re-erection and repair when offenders not discoverable.

107. The Deputy Commissioner may decide, on the basis of possession, all disputes concerning boundaries, and may at any time direct the owners of mahâls villages or fields, by written notice served upon them,

Powers of Deputy Commissioner as to boundary disputes and boundary-marks.

(*a*) to cause proper boundary-marks to be erected in such mahâls, villages or fields,

(*b*) to repair the boundary-marks lawfully erected in such mahâls, villages or fields.

108. In default of compliance with such direction within fifteen days from the date of the service of the notice, the Deputy Commissioner shall cause such boundary-marks to be erected or repaired, as the case may be, and shall charge the cost of such erections or repairs to the owners of the conterminous mahâls, villages or fields in such proportion as he thinks fit.

Power to erect or repair boundary-marks.

CHAPTER VII.

COLLECTION OF THE LAND-REVENUE.

109. In the case of every mahâl the entire mahâl shall be charged with, and all the proprietors jointly and severally shall be responsible to Government for the revenue for the time being assessed on the mahâl.

Responsibility of proprietors of mahâl for land-revenue.

The term "proprietors" shall, for the purposes of this chapter, include all persons in possession for their own benefit.

110. The Chief Commissioner may, from time to time, make rules as to the instalments in which, and the persons, places and times to whom, and at which, the revenue payable in respect of any land shall be paid.

Chief Commissioner may make rules as to payment of revenue.

111. Until the issue of such rules the said revenue shall be paid in the instalments, to the persons, and at the times and places in which, to whom, and at which, it is now paid.

Payment until issue of rules.

112. Any sum not so paid becomes thereupon an arrear of revenue, and the proprietor responsible for it becomes a defaulter.

Effect of non-payment.

No interest shall be demanded on any arrear of land-revenue.

113. If the settlement of any land has been made with a lambardár, and if there be an arrear of revenue due in respect of such land, both the lambardár and the co-sharers of the mahâl from which the arrear is due shall be deemed defaulters.

Defaulters in case of settlements with lambardárs.

114. A statement of account certified by the tahsîldar shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

Evidence of arrear.

115. When an arrear of land-revenue has accrued, a writ of demand or summons to appear may issue, calling on the defaulter to pay the amount within a time therein stated.

Writ of demand.

116. At any time after an arrear of land-revenue becomes due, such officer as the Chief Commissioner from time to time empowers in this behalf, may arrest the defaulter and detain him in custody for fifteen days, unless the arrear, together with the costs of arrest, is sooner paid.

Arrest and detention of defaulter.

117. If the arrear be not paid within fifteen days, and no good reason for the non-payment is shown, the Deputy Commissioner may issue an order to the jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding six months from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order:

Imprisonment in civil jail.

Provided that no person exempted under the law for the time being in force from personal attendance in the Civil Courts, no taluqdár and no female, shall be subject to arrest or imprisonment under this and the preceding section.

118. The Deputy Commissioner may, whether the defaulter has been arrested and imprisoned or not, order the attachment and sale of so much of his moveable property as will, as nearly as may be, defray the arrear.

Attachment and sale of moveables.

Nothing herein contained shall authorize the attachment and sale of articles set aside exclusively for the use of religious endowments: or, in the case of an agriculturist, of instruments of husbandry and of cattle *bonâ fide* kept for the cultivation of his land, or in the case of an artisan, of his tools, nor of any other articles exempted by the law for the time being in force from sale in execution of decrees of Civil Courts.

119. Every attachment and sale ordered under the preceding section shall be conducted according to the law in force for the time being, for the attachment and sale of moveable property under the decree of a Civil Court.

Conduct of sale.

120. When an arrear of land-revenue has become due in respect of a share, pattî or mahâl, the Deputy Commissioner may in addition to, or instead of, the processes hereinbefore specified, cause such share, pattî or mahâl to be attached and taken under the direct management of any agent whom he appoints for that purpose.

Property may be attached and taken under direct management.

The agent so appointed shall stand, for the purpose of managing the property so attached, in the position of the person for whose default it was attached;

Powers and obligations of agent.

and shall be bound by all the liabilities of such person to any under-proprietors, lessees whose rent has been fixed by a Settlement Officer, or tenants with rights of occupancy;

and shall be entitled to manage such property and to receive all rents and profits accruing thereon to the exclusion of the person for whose default it was attached,

until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

121. All surplus profits of the property so attached after defraying thereout any instalment of land-revenue that may become due during such management, and the cost of such attachment and direct management, shall be applied to discharging the arrear of revenue on account of which it was ordered.

Application of surplus profits.

And no such management shall continue after such arrear has been discharged as aforesaid, and any surplus remaining after payment of the charges mentioned in the first clause of this section shall be handed over to the proprietor.

Termination of management.

122. If an arrear of land-revenue has become due in respect of the share of any member of a village community, such community, or any member thereof, may tender payment of such arrear, or may offer to pay such arrear by instalments.

Transfer of share of defaulter to solvent co-sharers.

If such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to the community or member making the tender or offer on such terms as the Deputy Commissioner thinks fit, and either for a term of years, or until such arrear is paid.

In case of conflicting tenders or offers under this section, the co-sharer who, in case the share were sold, would have a right of pre-emption under section 9 of the Oudh Laws Act, shall be preferred.

123. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years from the date of the transfer, the community or member to whom the share has been so transferred, may apply in writing to the Deputy Commissioner

When transfer of share is to become absolute.

to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute.

The Deputy Commissioner shall publish such notification accordingly, and if the arrear is not repaid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute.

Procedure not to affect joint liability of co-sharers.

124. The procedure prescribed in the two preceding sections shall not affect the joint liability of the co-sharers of the mahál.

When settlement may be annulled.

125. When any arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner is of opinion that the processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, any such process, report, through the Commissioner of the division, the matter to the Chief Commissioner, and the Chief Commissioner may thereupon order the existing settlement of such pattí or mahál to be annulled.

Exception of certain arrears.

The provisions of this section shall not be put in force for the recovery of any arrear of land-revenue which may have accrued on land,

(*a*) while attached under section 120, or

(*b*) while in charge of the Court of Wards.

When settlement has been annulled, the Deputy Commissioner may manage the land himself, or by agent, or let it in farm.

126. When the settlement of any pattí or mahál has been annulled under the last preceding section, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either manage the land by himself or an agent, or let it in farm to any person willing to accept the same, for such term and on such conditions as may be approved by the Chief Commissioner:

Provided that the term for which a pattí or mahál may be so managed or let be not longer than fifteen years from the first day of July next after the date of such annulment.

Suspension of contracts.

And no interest in or right to such pattí or mahál, or any part thereof, created or assigned by any person who, immediately before the annulment of the settlement, was in possession of the whole or any part of the land comprised therein, or by any person through whom he claims, shall, during the continuance of such term, be binding on the Deputy Commissioner or his agent or lessee.

Proclamation of attachment or annulment of settlement.

127. When the Deputy Commissioner attaches any land under section 120, or when the settlement of any land has been annulled under section 125, he shall make public proclamation thereof on the mahál.

And he may realize all arrears of rent becoming due in respect of such land by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, as if they were arrears of land-revenue.

Payments thereafter to defaulter not to discharge payer.

128. No payment made after such proclamation on account of rent or other profit of the land so attached, or of which the settlement has been so annulled to any person other than the Deputy Commissioner or his agent or lessee, shall be credited to the person making such payment, or relieve him from liability to payment to the Deputy Commissioner, his agent or lessee.

Payments to defaulter in anticipation of due date.

129. No payment made to the defaulter in anticipation of the usual period for the payment of rents, shall, without the special sanction of the Deputy Commissioner, be credited to the person making the same in account with the Deputy Commissioner, or with his agent or lessee.

Recovery of balance due by farmer.

130. When any land has been let in farm under section 126 any balance due by the lessee as such may be recovered from him or his surety (if any) as if it were an arrear of revenue.

Suspension of responsibility of co-sharers for revenue of portion of mahál as to which settlement is annulled.

131. Whenever the settlement of any portion of a mahál is annulled under section 125, the joint responsibility of the co-sharers of the mahál for the revenue of such portion subsequently becoming due, shall be in abeyance until a new settlement of such portion is made under section 132.

Offer of settlement to proprietor on expiry of period for which land is managed or farmed.

132. After the expiration of the period for which any land has been managed or let in farm under section 126, the Deputy Commissioner shall offer to the person entitled to be settled with under section 26 a new settlement, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the district; and if such person refuse such offer, the Deputy Commissioner may (with the previous sanction of the Chief Commissioner) either manage the land by himself or an agent, or let the same in farm, under the provisions of sections 30 to 38, both inclusive.

Power to sell land to recover revenue-arrears.

133. When an arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner of the district is of opinion that the other processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of all or any such other processes, and subject to the provisions next hereinafter contained, and with the previous sanction of the Chief Commissioner, sell by auction the pattí or mahál in respect of which such arrear is due:

Provided that no pattí or mahál shall be sold—

(*a*) for any arrears of land-revenue which may have become due in respect thereof while it was under the management of the Court of Wards, or held under the provisions of the Oudh Taluqdárs' Relief Act, or when the proprietor or under-proprietor thereof was, at the time the arrear accrued, a female deemed by the Chief Commissioner incompetent to manage her estate, a minor, an idiot, or a lunatic;

(*b*) for any arrears of land-revenue which may have become due while it was under attachment under section 120; or

(*c*) for any arrears of land-revenue which may have become due while it was under direct management by the Deputy Commissioner, or in farm by

any other person under sections 32, 35, 126, or 132.

Land to be sold free of incumbrances.

134. Land sold under the last preceding section shall be sold free of all incumbrances,

Grants and contracts void against purchaser.

and all grants and contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser at the auction-sale.

Exceptions.

Nothing in the former part of this section applies to leases of lands at fair rents, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship or burying grounds.

Power to direct sale to be made subject to incumbrances.

135. The Chief Commissioner may, notwithstanding anything contained in section 134, at any time before a sale of land for arrears of revenue has been actually made, direct it to be made subject to such of the interests in or rights to such land created by the proprietor in possession thereof, or any person through whom he claims, as the Chief Commissioner thinks fit.

Power to cancel restricted sale and re-sell under section 134.

When the proceeds of a sale so made are not equal to the arrears due at the time of sale, the Chief Commissioner may, at any time before the Commissioner of the Division has confirmed the sale, direct it to be cancelled and a new sale of the land to be made under section 134.

Power to proceed against defaulter's other immoveable property.

136. If the arrear cannot be recovered by any of the above processes, and the defaulter is in possession of any other immoveable property, the Deputy Commissioner may proceed against such other property, as if it were the land on account of which the revenue is due under the provisions of this Act:

Provided that no interest save those of the defaulter alone, shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by such proceeding.

Procedure in effecting sale.

137. On the receipt of the sanction of the Chief Commissioner to the sale of any land, the Deputy Commissioner of the district shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale,

and (when the land to be sold is a mahál or part of a mahál paying revenue to Government) the revenue assessed upon it, together with any other particulars he may think necessary.

Contents of proclamation.

138. When the land is sold for arrears of revenue due in respect thereof, the proclamation shall declare that the land is to be sold free of every incumbrance except the leases mentioned in section 134, and except the interests and rights, if any, referred to in the first paragraph of section 135.

The particulars of such leases, interests and rights shall be given in the proclamation.

Such proclamation shall be made at the headquarters of the tahsíl in which the land is situate, and also in the village of which it is a part.

Notification of sale.

139. A written notice of the intended sale and of the time and place thereof shall be affixed in the office of the Deputy Commissioner of the district, and where the Assistant Commissioner in charge of the sub-division in which the land is situate has a separate office, then also in such office, and a copy of such notice shall be served on the defaulter.

Sale by whom to be made.

140. Every sale under this chapter shall be made either by the Deputy Commissioner of the district in person or by an Assistant Commissioner specially appointed by him in this behalf.

Time when sale may be made.

No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the said notice thereof has been affixed in the office of the Deputy Commissioner of the district, and proclamation of the sale has been made in the village in which the land is situate.

The Deputy Commissioner of the district may, from time to time, postpone the sale, reporting such postponement to the Commissioner of the division.

When sale may be stayed.

141. If the defaulter pay the arrear of revenue in respect of which the land is to be sold at any time before the day fixed for the sale, to the person appointed by Government under section 110, to receive payment of the revenue assessed on such land, or to the Deputy Commissioner of the district, or the Assistant Commmissioner in charge of the sub-division of the district, the sale shall be stayed.

Deposit by purchaser.

142. The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of

Re-sale in default of deposit.

such deposit the land shall forthwith be again put up and sold.

Purchase-money when to be paid.

143. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the land took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then on the first office-day after such fifteenth day;

Resale in case of default.

and in default of payment within such period, the deposit, after defraying thereout 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 be subsequently sold.

Liability of purchaser for loss by re-sale.

144. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in the Code of Civil Procedure for the execution of a decree for money.

Notification before re-sale.

145. No re-sale under section 143 in default of payment of the purchase-money shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

146. At any time within thirty days from the date of the sale, application in writing may be made to the Commissioner of the Division to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it.

Application to set aside sale.

147. No sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of.

When sale may be set aside.

148. After the expiration of the said thirty days, if no such application as is mentioned in section 146, has been made, or if such application has been made and rejected, the Commissioner of the Division shall make an order confirming the sale;

Order confirming or setting aside.

and if such application be made and allowed the Commissioner shall make an order setting aside the sale.

Every order made under this section shall be final.

149. If no such application be made within the time allowed by section 146, all claims founded on the irregularity or mistake complained of shall, as against the Government, be barred.

Bar of claims against Government.

Nothing herein contained shall preclude the institution of a suit in a Civil Court for the purpose of setting aside a sale on the ground of fraud.

150. Whenever the sale of any land is set aside, the purchaser shall be entitled to receive back his purchase-money, with or without interest, at such rate not exceeding six per cent. per annum, as the Commissioner of the Division thinks fit.

Refund of purchase-money when sale set aside.

151. After a sale of land in respect of which an arrear of revenue is due has been confirmed in manner aforesaid, the Deputy Commissioner of the District shall, unless the purchase has been made subject to a right of some other person to possession, put the person declared to be the purchaser into possession of the land, and shall grant him a certificate, to the effect that he has purchased the land to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such land, but need not be stamped or registered as a conveyance.

On confirmation of sale, purchaser to be put in possession.

If the land has been sold on account of an arrear of revenue due in respect thereof, the certificate shall also either state that the purchaser has purchased the land to which the certificate refers free of every incumbrance other than the leases mentioned in section 184, or shall specify the incumbrances subject to which the land has been sold.

152. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Bar of suit against certified purchaser.

153. When a sale of land has been confirmed under section 148, the proceeds of the sale shall be applied in the first place to defraying the expenses of sale and to the payment of any arrears due in respect of such land at the date of the confirmation of such sale and recoverable as an arrear of land-revenue,

Application of proceeds of sale.

and the surplus (if any) shall be paid to the person whose land has been sold;

or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their recorded interests, at the discretion of the Deputy Commissioner of the District.

154. Such surplus shall not (except under an order of a Civil Court) be payable to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained in the Government treasury.

Surplus not to be paid to creditors, nor retained by Government except under order of Court.

155. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the confirmation of the sale.

Liability of purchaser for revenue.

156. Where any land sold under section 133 is a pattí of a mahál, any recorded co-sharer, not being himself in arrear with regard to the revenue due in respect of such land, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Pre-emption by co-sharers when land sold is a pattí of a mahál.

Provided that such claim be made on the day of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfil all the other condtions of the sale.

157. Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings,

Payment under protest and suit for recovery.

and upon such payment the proceedings shall be stayed,

and (subject to the pecuniary limitations prescribed by law) the person against whom such proceedings were taken may sue the Government for the amount so paid in any Civil Court situate in the district where such proceedings were taken;

and in such suit, the plaintiff may, notwithstanding section 114, give evidence of the amount which he alleges to be due from him.

158. Any proprietor or under-proprietor of a mahál or portion of a mahál, that is attached, transferred, held under direct management, farmed or sold under the provisions of this Act, who may, at the date of the order of such attachment, transfer, direct management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner may determine, and the rent to be

Proprietor of mahál when to be deemed a tenant with right of occupancy.

paid by him for such land shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

159. Whenever a mahál or pattí is held in sub-settlement, or under a heritable, nontransferable lease, the rent payable under which has been fixed by the Settlement Officer, and the rent of such mahál or pattí falls into arrear, the proprietor may, instead of suing the defaulter under Act No. XIX of 1868, apply in writing to the Deputy Commissioner requesting him to realize such arrear.

Assistance to recover rent of mahál held in sub-settlement.

The Deputy Commissioner shall, on receipt of such application, satisfy himself as to the existence of such arrear, and shall then, subject to such rules as may from time to time be made in this behalf by the Chief Commissioner, proceed to recover such arrear as if it was an arrear of revenue.

160. If the term for which any settlement has been made expires before a new settlement is made, all persons with whom a settlement has been made, who continue after the expiration of such term to occupy the land comprised in the expired settlement shall, until a new settlement is made, hold the said land upon the conditions of the expired settlement.

Tenure of land under expired settlement until new settlement is made.

161. The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of land-revenue and sums of money recoverable as arrears of land-revenue and due when this Act comes into force.

Provisions applied to arrears due at commencement of Act.

CHAPTER VIII.

COURTS OF WARDS.

162. Deputy Commissioners shall, subject to the control of the Commissioner of the Division and of the Chief Commissioner, have the power of a Court of Wards within their respective districts for the superintendence of the persons and property of all persons who may become entitled as proprietors or under-proprietors, or lessees whose rent has been fixed by a Settlement Officer, to any beneficial interest in a mahál or portion of a mahál assessed to the payment of land-revenue or held free of revenue, and who are either disqualified for the management of their own estates or are committed by a Civil Court to the care of the Deputy Commissioner:

Deputy Commissioners to be Courts of Wards.

Provided that the Court of Wards shall not take charge of or administer any beneficial interest in an estate, in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Bar of jurisdiction in certain cases.

163. Persons shall be held to be disqualified to manage their own estates when they are

Persons when disqualified to manage their estates.

(*a*) females deemed by the Chief Commissioner incompetent to manage their estates,

(*b*) minors,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons who may in the opinion of the Chief Commissioner be otherwise rendered incapable by physical defects or infirmities from managing their estates,

(*f*) persons convicted of a non-bailable offence, and disqualified in the opinion of the Chief Commissioner by vice or bad character from managing their estates,

(*g*) persons declared by the Chief Commissioner on their own application to be disqualified from managing their estates.

164. The Deputy Commissioner may make an inquiry into the disqualification of any person, who, he has reason to believe, disqualified within the meaning of section 163, clauses (*b*), (*c*) or (*d*), and into the circumstances and property of any such person, and may make an order declaring him to be subject to the jurisdiction of the Court of Wards.

Inquiry into minority, lunacy, idiocy, &c.

165. The Court of Wards may assume or refrain from assuming the superintendence of the person or property of any disqualified person and may at any time release any person or property from its superintendence: Provided that such person or property has not been placed under the Court of Wards by any competent authority whose order is necessary to his or its release.

Jurisdiction of Court of Wards.

166. If in any case not specially provided for by this or any other law for the time being in force, the right of the Court of Wards to assume or retain the superintendence of the estate of a disqualified person is disputed by such person, the case shall be reported to the Chief Commissioner whose orders thereon shall be final.

Report to Chief Commissioner when right of Court of Wards is disputed by persons other than those specially provided for.

167. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto.

Extent of jurisdiction.

168. The Court of Wards may appoint managers of the property of disqualified proprietors, and if such proprietors be minors, idiots or lunatics, may appoint guardians for the care of their persons, and may remove and control such managers and guardians.

Appointment, removal and control of guardians.

169. Proprietors may appoint guardians for their heirs, if disqualified, by will executed and attested in manner required in case of Taluqdárs by Act No. I of 1869, and in case of other proprietors by the Indian Succession Act, 1865; but the Court of Wards shall be competent to remove such guardian for any sufficient reason.

Power of proprietors to appoint guardians for disqualified heirs.

170. The Court of Wards may direct where all male minors under its jurisdiction shall reside for the purpose of education or otherwise.

Powers of Courts of Wards as to male minors within its jurisdiction.

171. The manager appointed by the Court of Wards shall have power to collect the rents of the land entrusted to him, as well as all other money due to

Powers of manager.

the disqualified proprietor, and to grant receipts therefor;

and he may, subject to the control of the Court, grant or renew such leases and farms, not being for a longer period than five years, as may be necessary for the good management of the property.

172. The manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the proprietor's interest as if the property were his own.

Duties of manager.

173. The Court of Wards shall have power to give such leases or farms of the whole or parts of the immoveable property under its charge, and to mortgage or sell any part of such property, and to do all such other acts, as it may judge to be most for the benefit of the property and the advantage of the disqualified proprietors.

Power of Court of Wards as to land under its charge.

174. Persons whose property is under the superintendence of the Court of Wards shall not be competent to create without the sanction of the Court any charge upon or interest in such property or any part thereof.

Disabilities of persons subject to Court of Wards.

175. No such property shall be liable to be taken in execution of a decree made in respect of any contract entered into any his property is under such superintendence.

Their property exempt from being taken in execution of certain decrees.

176. All disqualified proprietors whose property is in charge of the Court of Wards shall sue and be sued by and in the name of their guardians, where guardians have been appointed; otherwise by and in the name of the Court of Wards.

Suits by and against disqualified proprietors in charge of Court of Wards.

Provided that no such suit shall be maintained or defended by any guardian without the sanction of the Court of Wards.

177. If no such guardian has been appointed, the disqualified proprietors shall sue and be sued by and in the name of the Court of Wards.

Suits by such proprietors when no guardian appointed.

178. Every manager appointed by the Court of Wards shall—

Rules relating to managers.

(*a*) give such security as the Court of Wards thinks fit, duly to account for what he shall receive in respect of the rents and profits of the property for which he is appointed;

(*b*) pass his accounts at such periods and in such form as the Court of Wards directs;

(*c*) pay the balance due from him thereon;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by such Court;

(*e*) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his wilful default or gross negligence,

CHAPTER IX.

POWERS OF OFFICERS.

A.—Powers of Assistant Commissioners.

179. An Assistant Commissioner in charge of a sub-division shall as such have the following powers:—

Powers of Assistant Commissioners of the first class.

(*a*) to refer cases for inquiry or decision to his subordinates;

(*b*) to withdraw cases from his subordinates and to deal with them himself, or to refer them for disposal to any other subordinate officer competent to deal with them;

(*c*) to order changes in the proprietary register;

(*d*) to levy fees for mutations;

(*e*) to enquire into cases of reported transfers;

(*f*) to levy fines, under section 65;

(*g*) to declare the person best entitled to property and put him in possession, under section 66;

(*h*) to report on revenue-free holdings, and to assess revenue on resumed grants;

(*i*) to assess alluvial lands;

(*j*) to receive applications for and make partitions under chapter V, of this Act, subject to the confirmation of the Deputy Commissioner of the District.

(*k*) to impose fines for injuries to boundary-marks, and in certain cases apportion the charges of re-erecting and repairing boundary-marks;

(*l*) to call on owners to erect or repair boundaries, and, in default, to erect and repair and charge the cost to owners, and to decide disputes regarding boundaries;

(*m*) to attach and sell moveable property of defaulters, under section 118;

(*n*) to fix under section 158 the area of the land to be held as a tenant with right of occupancy and the rent to be paid for it by proprietors of mahâls which have been attached, transferred, held under direct management, farmed or sold, under the provisions of this Act, for land in their cultivating occupancy;

180. Assistant Commissioners of the first class, not in charge of sub divisions of districts, shall exercise all or any of the powers conferred on Assistant Commissioners of the first class in charge of sub-divisions, in such cases or class of cases as the Deputy Commissioner of the District may, from time to time, refer to them for disposal.

Powers of Assistant Commissioners of first class not in charge of sub-divisions.

181. All Assistant Commissioners of the second class shall have power to investigate and report on such cases as the Deputy Commissioner of the District or Assistant Commissioner in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

Powers of Assistant Commissioners of second class.

B.—Powers of Settlement Officers.

182. Officers in charge of a settlement may exercise all the powers conferred by or under this Act on Settlement Officers, and by section ten on the Deputy Commissioner of the District, but none but an officer in charge of a settlement or an Assistant Settlement Officer specially empowered by the Chief Commissioner shall have power—

Powers of officers in charge of a settlement.

(*a*) to frame proposals for assessment;

(*b*) to distribute the assessment;

(*c*) to re-distribute land or revenue under section 31;

(*d*) to determine the rent payable under section 40 by under-proprietors or lessees;

(*e*) to exclude proprietors from settlement for refusal to engage;

(*f*) to adjust the rent of excluded proprietors;

(*g*) to determine under section 56 the rent payable in respect of resumed rent-free tenures;

(*h*) to resume and assess revenue-free land.

183. All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers, under such restrictions as the officer in charge of a settlement may from time to time impose.

Powers of Assistant Settlement Officers.

184. The Chief Commissioner may with the previous section of the Governor General in Council invest any officer in charge of a settlement with all or any of the powers of a Deputy Commissioner under this Act, and any Assistant Settlement Officer with all or any of the powers conferrible on an Assistant Commissioner under this Act within such limits, and with such restrictions, and for such period as he thinks fit.

Investing of Settlement Officers with powers of Deputy Commissioner and Assistant Commissioner.

CHAPTER X.

APPEALS.

185. Appeals shall lie under this Act as follows:—

Officers to whom appeals lie.

(*a*) to the Chief Commissioner from any order passed by a Commissioner except such orders as are made on appeal from orders passed by Deputy Commissioners in the exercise of their appellate jurisdiction;

(*b*) to the Commissioner from orders, original or appellate, passed by Deputy Commissioners or officers in charge of a settlement in any proceeding held under the provisions of this Act;

(*c*) to the Deputy Commissioner from orders passed by any Assistant Commissioner;

(*d*) to the officer in charge of a settlement from orders passed by an Assistant Settlement Officer.

186. No appeal under section 185, clauses (*c*) and (*d*), shall be brought after the expiration of thirty days from the date of the order complained of.

Limitation of appeals.

No appeal under the same section, clause (*b*), shall be brought after the expiration of six weeks from the date of the order complained of, unless otherwise specially provided.

No appeal under the same section, clause (*a*), shall be brought after the expiration of two months from the date of the order complained of.

187. In computing the period prescribed for an appeal under this chapter, the day on which the order complained of was passed, and the time requisite for obtaining a copy of such order, shall be excluded.

Time to be excluded.

188. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

Admission of appeal after period of limitation.

No appeal shall lie against an order under this section admitting an appeal.

189. The officer to whom the appeal lies may either admit or summarily reject the appeal. If he admit the appeal, he may reverse, modify or confirm the order appealed against, or he may direct such further investigation to be made or such additional evidence to be taken as he may think necessary, or he may himself take such additional evidence.

Procedure on admitting appeal.

190. In every case in which an appeal is admitted, the execution of the order appealed may, pending the result of the appeal, be suspended.

Suspension of order appealed against.

191. The Chief Commissioner and every Commissioner shall have power to call for the file of any proceeding held by any officer subordinate to him, and to pass such orders thereon as he thinks fit.

Power to call for files of subordinate officers.

CHAPTER XI.

REFERENCE TO ARBITRATION.

192. The Chief Commissioner, a Commissioner of a Division, a Deputy Commissioner, an Assistant Commissioner of the first class, an officer in charge of a settlement, or an Assistant Settlement Officer may, with the consent of the parties, by order, refer any dispute before him to arbitration; and any officer acting under the provisions of sections 103 to 108, both inclusive, may, with the consent of the parties, refer to arbitration any dispute arising before him respecting the matters mentioned in the same sections.

Power to refer disputes to arbitration.

193. In referring any such dispute to arbitration, the officer making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators, and such period as he may think reasonable for the delivery of the award;

What to be specified in order of reference.

and he may from time to time extend such period.

194. The parties to the case may each nominate either one or two arbitrators, provided that each party shall nominate the same number;

Appointment of arbitrators.

and a third or fifth arbitrator (as the case may be) shall be appointed by the parties, or, in the event of their being unable to agree, by the officer making the reference.

Power to excuse arbitrator from serving, and to call for nomination of substitute.

195. Every officer making a reference under this chapter may, on good cause shown, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused.

Nomination of new arbitrator in place of one dying or failing to act.

196. If an arbitrator die, desire to be discharged, or refuse or become incapable to act, the party who nominated him shall nominate another person in his place.

Nomination by officer when parties fail.

197. If in any of the cases provided for by section 195 or section 196 any party fail for a week to nominate in manner aforesaid, the officer making the reference shall appoint some person to act as arbitrator.

Award.

The arbitrators shall determine and award concerning the matters referred to them for arbitration; and the parties disputing, and all persons claiming through them respectively, shall abide by and perform the award of the arbitrators.

Summoning parties to give evidence.

198. If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they shall apply to the officer making the reference, who shall summon such parties or persons;

Obligation of persons summoned.

and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth as to the subject-matter of the reference, and to produce such documents and other things as may be required before the arbitrators.

Preparation and submission of award.

199. The award shall be made in writing under the hands of the arbitrators, and shall be submitted by them to the officer making the reference, who shall cause notice to be served on the parties to attend and hear the award.

In what cases award or subject of arbitration may be remitted to arbitrators.

200. The officer making the reference may remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators,

(*a*) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if an objection to the legality of the award is apparent upon the face of the award.

Grounds on which award may be set aside.

201. No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators.

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Application to set aside.

Decision according to award.

202. If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid,

and if no application has been made to set aside the award,

or if he has refused such application,

he shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration, and direct by, and to whom, and in what manner, the same shall be paid.

Bar to appeal any suit in Civil Court.

203. Such decision shall not be open to appeal, and shall be at once carried out;

and no Civil Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

CHAPTER XII.

MISCELLANEOUS.

Place for holding Court.

204. Subject to the orders of the Chief Commissioner,

(*a*) a Commissioner may hold his Court at any place within his division that he thinks fit:

(*b*) a Deputy Commissioner, an Assistant Commissioner (whether in charge or not of a sub-division of a district), or an officer in charge of a settlement or Assistant Settlement Officer may hold his Court at any place within the limit of the district to which he is appointed; and

(*c*) a Tahsíldár may hold his Court at any place within the limits of his tahsíl.

Power to summon persons to give evidence and produce documents.

205. The Chief Commissioner and any officer mentioned in the last preceding section shall have power to summon any person whose attendance he considers necessary for the purpose of any investigation, suit or other business before him.

All persons so summoned shall be bound to attend either in person or by authorized agent as such officer may direct,

and to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

Conduct of proceedings.

206. All proceedings held under the provisions of this Act shall be conducted according to the rules for the time being prescribed under section 208.

Matters excepted from cognizance of Civil Courts.

207. No Civil Court shall exercise jurisdiction over any of the following matters:—

(*a*) the claim of any person to be settled with, or

the validity of any engagement with Government for the payment of revenue, or

the amount of revenue, cess or rate to be assessed on any mahál, or portion of a mahál under this or any other Act for the time being in force: or

the rent to be paid to a proprietor by an under-proprietor or a lessee whose rent has been fixed by the Settlement Officer.

(*b*) any claims connected with or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer:

(*c*) the formation of the settlement record,

the preparation, signing, or attestation of any of the documents contained therein, or

the notification of settlement:

(*d*) the distribution on partition of the land or allotment of the revenue of a mahál or of the rent of an under-proprietary tenure, or of rent payable by lessees whose rent has been fixed by a Settlement Officer.

(*e*) the determination of the rent to be paid by any person under section 87:

(*f*) claims connected with, or arising out of, the collection of revenue or any process enforced on account of an arrear of revenue, or on account of any sum which is by this or any other Act realizable as revenue other than claims under section 157:

(*g*) claims to set aside a sale for arrear of revenue other than claims under section 149.

In all the above cases, jurisdiction shall rest with the revenue officers only.

Power to make rules for purposes of Act.

208. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, make and issue rules consistent with this Act, and relating to the following matters:—

(*a*) the appointment, duties, remuneration, punishment and dismissal of—

(1) tahsíldárs.

(2) lambardárs or representatives of village communities,

(3) kánúngos or superintendents of revenue records,

(4) patwáris or village accountants;

(*b*) for regulating the assessment of land gained by alluvion or the reduction of the assessment of a mahál in consequence of diluvion;

(*c*) the procedure to be followed by any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(*d*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under the preceding sections of this Act, and not expressly provided for as regards appeal shall be appealable;

(*e*) the person by whom, and the time, and manner at or in which, anything for the doing of which provision is hereinbefore made in this Act, shall be done;

(*f*) the form and contents of reports to be furnished by officers required or empowered to take action in any matter, and the period within which such reports shall be furnished;

(*g*) the form and contents of the registers and lists kept under this Act; and

(*h*) the cases in which alone taluqdárí maháls and mahálsi whether under-proprietary, or held by lessees whose rents have been fixed by the Settlement Officer shall be liable to partition under this Act;

(*i*) the costs of partitions under this Act and the persons by whom they are to be paid, and the mode of enforcing such payment against such persons or their shares in the property of which partition has been made;

(*j*) the issue under section 115, of writs of demand or summons to appear, and the costs recoverable from the defaulter, and the officer by whom such writs and summonses shall be issued;

(*k*) and generally to carry out the provisions of this Act.

Penalty for neglecting to appoint patwáris.

209. Where, by any rule framed under the provisions of clause (*a*) of the preceding section, the appointment of patwáris is directed to be made by the landowners of a village, or the landowners are made primarily responsible for enforcing the due submission of such returns as may be prescribed to be kept by patwáris, the neglect or refusal of such landowners to make such appointment or to enforce the submission of such returns shall be punishable with such fine not exceeding fifty rupees, as the Chief Commissioner directs.

Recovery of fines and costs.

210. All fees, fines, costs and other moneys ordered to be paid under this Act, shall be recoverable as if they were an arrear of land-revenue.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th July 1876:—

We, the undersigned Members of the Select Committee to which the Bill to declare and amend the laws to be administered in Oudh was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Secretary to Chief Commissioner, Oudh, No. 554, dated 2nd February 1871, and enclosures.
„ Government of Bengal, No. 3304, dated 14th July 1871, and enclosure.
Endorsement by Department of Revenue, Agriculture and Commerce, No. 900, dated 19th September 1872, forwarding—
Letter from Personal Assistant to Chief Commissioner, Oudh, No. 2779, dated 5th August 1872, and enclosures.
From Officiating Personal Assistant to Chief Commissioner, Oudh, No. 133, dated 14th January 1873, and enclosures.
„ Officiating Secretary to Chief Commissioner, Oudh, No. 4478, dated 19th September 1873, and enclosures.
„ Military Department, No. 437J, dated 8th January 1874, and enclosures.
„ Secretary to Chief Commissioner, Oudh, No. 1032, dated 4th March 1875, and enclosures.
„ Secretary to Chief Commissioner, Oudh, No. 3925, dated 21st August 1875, and enclosures.
„ Secretary to Chief Commissioner, Oudh, No. 2707, dated 9th January 1876, and enclosures.
„ Secretary to Financial Commissioner, Panjáb, No. 767, dated 18th July 1873, and enclosures.
„ Officiating Government Advocate, Panjáb, No. 1322, dated 16th July 1874.
„ Officiating Registrar, Chief Court, Panjáb, No. 1215, dated 15th May 1875, and enclosures.

2. We have omitted the chapter relating to minority. So far as relates to Europeans the matter is sufficiently provided for by Act No. XIII of 1874. As to Natives, there seemed some danger that the chapter in question might have interfered undesirably with their customs as to guardianship, minority, and bastardy; and as there is no evidence before us that those customs are either unjust or inexpedient, we thought it best not to touch them in the present measure. Exactly the same course was followed by the legislature when it passed the Panjáb Laws Act, and no inconvenience has been found to result.

3. We have transferred the chapter treating of the Court of Wards to the Oudh Land-Revenue Bill, with certain changes described in the report on that Bill.

4. For reasons similar to those mentioned in paragraph 2 of this report, we have omitted the chapter relating to betrothal. Here, again, we have followed the precedent of the Panjáb Laws Act.

5. We have redrawn the chapter of pre-emption, extending it to foreclosures of mortgages as well as to sales, as is done by the Panjáb Laws Act.

6. The substance of the sections on partitions has been inserted in the Oudh Land-Revenue Bill. We have therefore struck them out of the Laws Bill.

7. We have omitted the sections (46 and 47) as to the bar of certain suits for redemption. They were taken from the Oudh Courts Act: some difference of opinion exists about them; and they should not be inserted in a Bill of which the primary object is to clear up doubts as to what the law really is in Oudh. The Oudh Courts Act remains untouched in this respect.

8. We have also omitted the sections relating to insolvency. This matter will, so far as regards persons arrested or imprisoned in execution of money decrees, be dealt with by the revised Code of Civil Procedure, which will apply to Oudh as to other parts of British India; and, in any case, we think it inexpedient to give Oudh a special law on the subject.

9. We have also omitted the sections relating to intestacy. The procedure which they prescribe can, for the most part, be enforced by executive rules for the disposal of unclaimed property made under the Police Act, V of 1861. Moreover, so far as regards Europeans and East Indians, the necessary rules are already contained in the Administrator General's Act, II of 1874.

10. The retention of the system of trial by jury in civil cases in Lucknow alone, of all places in India, is obviously inexpedient. We have therefore struck out section 61.

11. We have struck out the clause of the Bill requiring Judges of Civil Courts to forward to the Deputy Commissioner certified copies of decrees affecting land.

12. As regards sales of land in execution of decrees, we have altered section 65 of the Bill so as to render unsaleable ancestral property in land without the permission of the Judicial Commissioner, and acquired property in land without the permission of the Deputy Commissioner. This maintains the modification of Act VIII of 1859, section 205, subject to which the Code of Civil Procedure was extended to Oudh in August 1861. We have also declared that in the clause under notice (section 21 of the amended Bill) the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59. This agrees with the Oudh Rent Act, section 109.

13. We have provided (section 22) for the appointment of a person to manage immoveable property under attachment.

14. We have amended (sections 23 and 24) the Oudh Rent Act sections 109 and 118.

15. We have omitted the chapters relating respectively to Escheats and Hidden Treasure. Rules as to the former subject can be made by the Executive and require no legislation. The latter subject will be dealt with by another Bill about to be introduced into the Council of the Governor General, which will apply to the whole of British India.

16. We have also omitted the chapter relating to Cantonments and Military Bázárs. So much doubt exists in the Military Department of the Government of India as to what rules should be made on this subject, that the Committee have thought it best to omit the chapter in question, and rely for the present on the rules contained in Bengal Regulation XX of 1810.

17. We have inserted, at the desire of the Chief Commissioner, a chapter (copied from Act XVI of 1873) dealing with Village and Road Police.

18. In the section relating to the creation of new districts, we have empowered the Chief Commissioner to subdivide districts and to alter the limits of subdivisions.

19. We have repealed sections 10 to 15 of the old Gambling Act, which were extended to Oudh by an executive order. We have also repealed Act XIX of 1863, as its provisions have been inserted in the Oudh Land-Revenue Bill. We have omitted from the schedule of repeals Act III of 1869, as to Rural Police, and sections 29 and 30 of the Oudh Civil Courts Act.

20. From the section (91) corresponding with sections 38 and 39 of the present draft, we have omitted the clause providing for the periodical republication of subsidiary rules.

21. From the second schedule we have omitted Regulation XXIII of 1803, as to fees to defray the expenses of Revenue-offices, and Regulation IV of 1821, as to the powers and duties of Collectors; and Acts I of 1847, as to boundary marks, XXVI of 1854, as to education of Wards, and XXXI of 1858, as to the settlement of alluvion. We have inserted Regulation XX of 1810, as to Military Bázárs, Regulation V of 1817, as to Hidden Treasure, and Regulation XI of 1822, section 38, as to the non-liability of Government for the errors of Courts of Justice.

22. The publication directed by the Rules for the conduct of legislative business has taken place. But the Bill has been so much altered that we think it should be republished, with this report, in the *Gazette of India* and the local Gazette, and that its further consideration should be postponed for two months.

A. HOBHOUSE.
R. H. DAVIES.
E. C. BAYLEY.
A. J. ARBUTHNOT.
JOHN INGLIS.
T. C. HOPE.
F. R. COCKERELL.

SIMLA;
The 22nd July 1876.

No. II.

THE OUDH LAWS BILL, 1876.

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SECOND SCHEDULE.

A Bill to declare and amend the laws to be administered in Oudh.

Whereas it is expedient to declare and amend the laws to be administered in Oudh; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Oudh Laws Act, 1876." Short title.

It extends only to the territories for the time being under the administration of the Chief Commissioner of Oudh; Local extent.

And it shall come into force on the passing thereof. Commencement.

2. On and from that day, the Regulations, Acts, Rules and Orders mentioned in the first Schedule hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule. Repeal of enactments.

PART II.

GENERAL LAWS TO BE ADMINISTERED IN OUDH.

3. The law to be administered by the Courts of Oudh shall be as follows:— Statutory law to be administered in Oudh.

(a) the laws for the time being in force regulating the assessment and collection of land-revenue;

(b) in questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions or any religious usage or institution, the rule of decision shall be—

(1) any custom applicable to the parties concerned which is not contrary to justice, equity, or good conscience, and has not been by this or any other enactment altered or abolished and has not been declared to be void by any competent authority;

(2) the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been, by this or any other enactment, altered or abolished, or has been modified by any such custom as is above referred to;

(c) the rules contained in the third Part of this Act;

(d) the rules published in the local *Gazette* as provided by section sixty-two or made under any other Act for the time being in force in Oudh;

(e) the Regulations and Acts specified in the second Schedule hereto annexed, subject to the provisions of section four, and to the modifications mentioned in the third column of the same schedule;

(f) subject to the modifications hereinafter mentioned, all enactments for the time being in force and expressly, or by necessary implication, applying to British India or Oudh, or some part of Oudh;

(g) in cases not provided for by the former part of this section, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

4. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity, or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority. Validity of local custom and mercantile usages.

PART III.

CHAPTER I.

DOWER AMONG MUHAMMADANS.

5. Where the amount of dower stipulated for in any contract of dower by a Muhammadan is excessive with reference to the means of the husband, the entire sum provided in the contract shall not be awarded in any suit by decree in favour of the plaintiff, or by allowing it by way of set-off, lien or otherwise to the defendant; but the amount of the dower to be allowed by the Court shall be reasonable with reference to the means of the husband and the status of the wife. Muhammadan dower-contracts how to be enforced.

This rule shall be applicable whether the suit to enforce the contract be brought in the husband's lifetime or after his death. Rule applicable after husband's death.

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PRE-EMPTION.

6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons. Right of pre-emption.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed— Presumption as to its existence.

(a) to exist in all village-communities, however constituted, and whether proprietary or under-proprietary, and in the case referred to in section 40 of the Oudh Land-Revenue Act, and

(b) to extend to the village site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

8. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein, and to be exercisable therein by such persons and under such circumstances as the local custom prescribes. Its existence in towns to be proved.

9. If the property to be sold or foreclosed is a proprietary or under-proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs, in the absence of a custom to the contrary, Devolution of right when property to be sold is part of a village.

1st, to co-sharers in the tenure in order of their relationship to the vendor or mortgagor;

2ndly, if no relation of the vendor or mortgagor claim the said right to buy or redeem, to the land-owners of the pattí or other sub-division of the tenure in which the property is comprised;

3rdly, to any member of the village-community; and

4thly, if the property be an under-proprietary tenure, to the proprietor.

10. When any person proposes to sell any property, or when he forecloses a mortgage upon any property, in respect of which any persons have a right of pre-emption, he must give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be. Notice to pre-emptors.

Such notice shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village or city in which the property is situate.

11. Any person having a right of pre-emption in respect of any property proposed to be sold, shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell. Loss of right of pre-emption.

12. Such decree shall specify a day on or before which the purchase-money shall be paid. Decree to fix time for payment.

13. If the purchase-money is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall lose his right of pre-emption over the property to which it relates. Effect of non-payment of purchase-money.

14. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section ten, pay or tender to the mortgagee or his successor in title the amount specified in such notice and shall thereupon acquire a right to purchase the property. Right of pre-emptor on foreclosure.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

Suit to enforce right of pre-emption.

15. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely)—

(*a*) that no due notice was given as required by section ten;

(*b*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*c*) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If in the case of a mortgage, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

CHAPTER III.

PROCEDURE OF THE COURTS.

(*a*) *Law of Limitation.*

Rule of Limitation.

16. The Judicial Commissioner's Circular No. 104 of July 1860, shall be held to have been a notification within the meaning of section twenty-four of Act No. XIV of 1859; and such Act shall be deemed to have been in force in Oudh from the fourth day of July 1862; and all orders and decrees passed under the rules contained in the said circular, or under the said Act, shall be deemed to have been passed under a law in force for the time being.

Nothing in this section affects the provisions of sections 102, 104, 105, 106, 107 and 108 of the Oudh Rent Act (XIX of 1868) with regard to the limitation of suits under that Act.

Act XXII of 1871, s. 28, to cease in any district where first regular settlement is sanctioned.

17. The provisions of the Oudh Civil Courts' Act, 1871, section 28, shall cease to have effect in any district from the date on which the first regular settlement is sanctioned therein.

(*b*) *Modifications of the Code of Civil Procedure.*

Extension of the term 'recognized agent.'

18. Section 17 of Act VIII of 1859 is hereby repealed, so far as the Province of Oudh is concerned, and the following section is substituted therefor:—

"The recognized agents of parties by whom such applications and appearances may be made are—

"A permanent servant, partner, relation or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers of attorney from absent parties, parties carrying on business on behalf of bankers and traders, managing agents of landlords, nearest male relations of women, and persons *ex-officio* authorized to act for Government or for any prince or chief.

"Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to, or processes served on, a recognized agent, relative to a suit, shall be effectual for all purposes, in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act, relative to the service of notices or processes on a party to a suit, shall be applicable to the service of notices and processes on such recognized agent."

Modification of sec. 111 of Act VIII of 1859.

19. Section 111 of the same Act shall be construed as if the following clause were added thereto (namely) "Nothing in this section shall be deemed to compel the Court to decide *ex parte* in the absence of the defendant; but if the defendant does not appear, the Court may, in its discretion, attach his property and issue a warrant to arrest and detain him till such day as it appoints for the hearing of the suit."

Rules for taking evidence.

20. Section 172 of Act No. VIII of 1859 is hereby repealed, so far as the Province of Oudh is concerned, and the following section is substituted therefor:—

"On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and hearing and under the personal direction and superintendence of the Judge.

"A note of the essential points of the evidence of each witness is to be taken at the time, and in the course of oral examination, by the officer who tries the case, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed, and shall form part of the record of the case.

"If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down to be interpreted to him in the language in which it was given.

"It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any party or his pleader requires it.

"If any question put to a witness be objected to by either of the parties or their pleaders, and the Court allow the same to be put, the question and the answer shall be taken down, and the objection and the name of the party making it shall be noticed in taking down the depositions, together with the decision of the Court upon the objection.

"The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

"If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record."

Execution of Decrees.

Execution sale of under-proprietary right.

21. So much of section 205 of the Code of Civil Procedure, as renders land liable to sale in execution of a decree, shall be subject to the following restriction:—

No ancestral property in land shall be sold in satisfaction of a decree without the permission of the Judicial Commissioner; no acquired property in land shall be so sold without the permission of the Deputy Commissioner.

Explanation.—In this section the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

Appointment of a person for the care and management of immoveable property.

22. Whenever the Civil Court may think fit under section 243 of the Civil Procedure Code, or any other law in force for the time being, to provide for the management of immoveable property, the Court shall issue a precept to the Deputy Commissioner of the district wherein such property may be situated, directing him to hold the property in attachment, and to appoint a person for the due care and management of the property under adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof.

The precept of the Civil Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

Nothing in this section is to be taken as authorising a Civil Court to direct a Deputy Commissioner to attach immoveable property not in the actual possession of the judgment-debtor, or of some one on his behalf other than a creditor holding the said property as security for a debt due by the said judgment-debtor.

Section substituted for section 109, Act XIX of 1868.

23. The following section is substituted for section 109 of Act XIX of 1868 (The Oudh Rent Act):—

"The provisions of the Code of Civil Procedure, as in force in Oudh, shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act."

Section substituted for section 118, Act XIX of 1868.

24. Section 118 of the Oudh Rent Act No. XIX of 1868 is repealed, and the following section is substituted for it:—

"118. No process of execution shall be issued on a decree under this Act on any application made after the lapse of three years from the date of such decree."

No process of execution to issue on a decree after the lapse of three years from date of such decree.

Right of occupancy in judgment-debtor's sir land.

25. Any proprietor or under-proprietor of a mahál or portion of a mahál, which is attached, transferred, held under direct management, farmed or sold under the provisions of the Code of Civil Procedure, who may at the date of the order for such attachment, transfer, management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner shall determine, and the rent to be paid by him for land so determined shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

Power to make rules for custody and sale of attached property.

26. With the sanction of the Chief Commissioner, the Judicial Commissioner may from time to time make rules consistent with this Act and with the Code of Civil Procedure,

(*a*) for the custody and sale of moveable property attached in execution of decrees;

(*b*) for the levy of a fee or commission on the sale of attached property, and the disposal of the funds accruing from such fees;

(*c*) as to the appointment and remuneration of persons by whom property is to be attached, kept in custody, and sold; and

(*d*) as to the appointment and remuneration of persons by whom local investigation under section 180, and investigations and adjustments of accounts under section 181, of the Code of Civil Procedure, are to be made.

CHAPTER IV.

OF VILLAGE AND ROAD POLICE.

Appointment of Village Police.

Right of nomination of village policemen.

27. The nomination to the post of village policeman shall be made by the zamíndár of the village, or, where there are more zamíndárs than one, by the lambardár as their representative, and where there are more lambardárs than one, the opinion of the majority (unless there is some special provision to the contrary in the village administration paper) shall prevail.

Obligation to nominate.

28. Every person authorized to nominate to the office of village policeman shall, within fifteen days after the occurrence of a vacancy in such

office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district.

Discretion to appoint or reject nominee.

29. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorized by him in that behalf.

Power to Magistrate to appoint.

30. (*a*).—In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Procedure in case of rejection of nominee.

(*b*).—If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made, but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Appointment of Road Police.

Appointment of road police.

31. Subject to the rules to be framed under section thirty-seven and for the time being in force, the Magistrate of the district may, from time to time, appoint persons to be the road police of his district.

Duties of Village and Road Police.

Duties of village and road policemen.

32. Every village policeman and every road policeman shall perform the following duties:—

(*a*).—He shall give immediate information to the officer in charge of the police-station appointed for his village or beat,

(1) of every unnatural, suspicious, or sudden death occurring in the village of which he is chaukídár, or within his beat;

(2) of each of the following offences occurring in such village or on such beat (that is to say,) murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences.

(*b*).—He shall keep the police informed of all disputes which are likely to lead to any riot or serious affray.

(*c*).—He shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (*a*), clause (2) of this section.

(*d*).—He shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat.

(*e*).—He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood.

(*f*).—He shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on arrest by village or road policeman.

33. Whenever a village policeman or road policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

Liabilities of Village and Road Police.

Dismissal of village or road policeman.

34. The Magistrate of the district may dismiss any village policeman or road policeman for any misconduct or neglect of duty.

Acts punishable.

35. Every village policeman and every road policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,

or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections twenty-seven, thirty and thirty-one (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section thirty-seven and for the time being in force,

Penalty.

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay or to imprisonment for a period not exceeding three months, or to both.

Fines to be credited to such fund as Government appoints.

36. All fines levied under this Act on village policemen or road policemen shall be credited to such fund as the Local Government from time to time appoints.

CHAPTER V.

SUBSIDIARY RULES.

Power to make rules.

37. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make rules consistent with this Act as to—

(*a*) the discipline and remuneration of the village and road police and the regulation of their number, location and duties;

(*b*) the entry into cities or towns of bands of armed men;

(*c*) prohibiting bands of foreign vagrants from entering or requiring them to leave any district;

(*d*) the disposal of unclaimed property under Act No. V of 1861 (*for the regulation of Police,*) sections 25, 26, 27;

(*e*) public health and conservancy at fairs and other large public assemblies, and the maintenance of a proper watch and ward at such fairs and assemblies;

(*f*) imposing with the previous sanction of the Governor General in Council taxes for those purposes only;

(*g*) the manner in which records, civil, criminal and revenue, shall be kept; the appointment and removal of the persons entrusted with the custody of records, and all other matters connected with such custody and the destruction from time to time of such records as it may be deemed unnecessary to keep;

(*h*) the appointment, duties, punishment and dismissal of all ministerial officers other than those employed in the Civil Courts and those in respect of whom provision is made in the Oudh Revenue Act.

Publication of rules.

38. All rules made by the Chief Commissioner under section thirty-seven and all rules made by the Judicial Commissioner under section twenty-six shall be published in the local official *Gazette*, and shall thereupon have the force of law.

Rules prescribed in respect of matters for which rules may be made under this Act, to remain in force for twelve months.

39. All rules heretofore prescribed by competent authority in respect of any of the matters for which rules may be made under this Act, shall remain in force for twelve months after this Act comes into force, unless any rules on the same subject are previously issued by the Chief Commissioner or Judicial Commissioner.

Penalty for breach of rules.

40. Whoever breaks any rule made under this Act, shall, on conviction before a Magistrate, be punishable with a fine not exceeding fifty rupees, or imprisonment not exceeding a period of six months, or with both.

CHAPTER VI.

MISCELLANEOUS.

Honorary Civil Jurisdiction.

Power to invest Taluqdárs with civil jurisdiction.

41. The Chief Commissioner may from time to time by notification in the official *Gazette*

(*a*) invest such persons as he thinks fit to be Honorary Assistant Commissioners with the powers of a Civil Court of the first or second grade,

(*b*) declare what shall be in each such case the local limits of the jurisdiction so conferred, and

(*c*) withdraw such jurisdiction.

Honorary Police Officers.

Honorary police officers.

42. The Chief Commissioner may from time to time confer on any person whom he thinks fit any power which may be exercised by a police officer under any Act for the time being in force, and withdraw any power so conferred.

Armed men and Foreign Vagrants.

Bands of armed men.

43. No band of armed men shall enter into any city or town, except with the consent of the Chief Commissioner or of such officer as he may empower in this behalf.

Foreign vagrants.

44. The Magistrate of the district may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace, or to commit any offence under the Indian Penal Code, prohibit such band from entering his district, or, if they are already in his district, may require them within a given time to leave it.

Procedure when they disobey Magistrate's orders.

45. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Chief Commissioner, and the Chief Commissioner may give such directions for the supervision, control, or deportation of such band as to him seems fit.

Pasturage of Government lands.

Pasturage of Government lands.

46. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent of the Chief Commissioner or of such officer as he may empower in this behalf.

Power to create new Districts.

47. The Governor General in Council may by notification in the *Gazette of India* create new Districts in any part of such territories, for any revenue, judicial or other purpose, and may alter the limits of existing Districts.

Power to form Sub-divisions of Districts.

The Chief Commissioner may from time to time divide any District into Sub-divisions, and from time to time alter the limits of such Sub-divisions.

All existing tahsils shall be Sub-divisions of Districts until they are so altered.

THE FIRST SCHEDULE.

(*See section* 2).

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in Oudh, except those specified in the second schedule,	
	and, except when expressly provided otherwise in this Act, all rules, Laws and Regulations made for the Province of Oudh, or any part thereof, which have acquired the force of law under the Indian Councils' Act.	
	Government Notification No. 4325 of 6th August 1861.	The whole.
XXI of 1857 ...	Gambling	Sections ten to fifteen.
XIX of 1863 ...	Partition	The whole.
XXXII of 1871 ...	The Oudh Civil Courts Act	Section thirty-one.

THE SECOND SCHEDULE.

(*See section* 3).

PART I.—BENGAL REGULATIONS.

Number and year.	Subject.	Modifications.
XXXIII of 1808 ...	Embezzlement by Native Officers.	In section II, *omit* the first sentence of the second clause, and in the second sentence of the same clause, *omit* "such" and "accordingly." In section III, *for* "Dewanny Adawlut of the Zillah, the Judge of which Court shall detain him" *read* "District, where he shall be detained;" *for* "real or personal" *read* "moveable or immoveable;" *for* "city" *read* "jurisdiction;" *for* "Board of Revenue" *read* "Chief Commissioner." In section IV, *omit* the words "or in either of the cities of Patna, Dacca or Moorshedabad."
X of 1809 ...	Punishment by Courts Martial of certain State offences.	*Omit* section I. In section II, *for* "the British territories subject to the Government of the Presidency of Fort William" *read* "the territories under the administration of the Chief Commissioner of Oudh." In section IV, *omit* "or before any special Court appointed for the trial of such offences under Regulation IV, 1799, and Regulation XX, 1803."

Number and year.	Subject.	Modifications.
XI of 1806 ...	Assistance to troops and travellers passing through Districts.	*Omit* sections I, VII, IX to XX (both inclusive), and so much of the rest of the Regulation as authorises Collectors and their native officers, or Magistrates and their police officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers. *For* "Collectors of Revenue" and "Collector" *read* "Deputy Commissioner" throughout the Regulation. In sections II and III, *for* "the Company's territories" *read* "Oudh." In section II, *omit* the last sentence. In section IV, clause *Third*, *for* "Governor General in Council" *read* "Chief Commissioner." In section V, *omit* "the Company's;" and *for* "Board of Revenue" *read* "Chief Commissioner." In section VI, *for* "Magistrate" *read* "Deputy Commissioner" and *for* "on the part of the Collector" *read* "by the Deputy Commissioner." In section VIII, *for* "the Company's provinces" *read* "Oudh;" and *omit* the words and figures ("under the rules prescribed by Regulation V, 1804.)"
XVII of 1806 ...	Redemption and foreclosure of mortgages.	*Omit* sections I to VI (both inclusive), and in section VII, the first sentence as far as the word "designation" and the concluding sentence. In section VII, *for* "within one year (Bengal Fassily or Willaity according to the era current where the mortgage may take place)" *read* "within one calendar year;" *for* "Zillah or City Court of Dewanny Adawlut" *read* "Deputy Commissioner;" *for* "Dewanny Adawlut of the Zillah or City" *read* "Court of the Deputy Commissioner or other officer having jurisdiction with reference to the value of the subject matter." In section VIII, *for* "preamble and preceding sections" *read* "preceding section;" *for* "Judge of the Zillah or City" *read* "Deputy Commissioner of the District," and *for* "Judge" *read* "Deputy Commissioner."
XX of 1810 ...	Military Bázárs.	
V of 1817 ...	Hidden Treasure ...	In section V, *for* "Board of Revenue" *read* "Chief Commissioner;" *for* "Judge" *read* "Deputy Commissioner." In section VI, *for* "Zillah or City Judge" *read* "Deputy Commissioner." In section VIII, *for* "Judge of the Zillah or City Court" *read* "Deputy Commissioner," and *omit* the words "on the application of the vakeel of Government under instructions from the Board of Revenue." In section IX, *for* "Judges of the Zillah Courts" *read* "Deputy Commissioners."
III of 1818 ...	State Prisoners ...	In section IV, *omit* clause *First*. In the same section, clause *Second*, *for* "Zillah or City Magistrate" *read* "Deputy Commissioner," and *for* "Judge of Circuit" *read* "Commissioner of Division." *Omit* section VIII, and the last twenty-five words of the preamble. In section IX, *for* "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut" *read* "and to the Judicial Commissioner."
VI of 1819 ...	Ferries	*Omit* section II.

Number and year.	Subject.	Modifications.
		Omit "or Joint Magistrates," "and Joint Magistrates" and "or Joint Magistrate," wherever they occur. In section I, *for* "subject to the Presidency of Fort William in Bengal" *read* "under the administration of the Chief Commissioner of Oudh," and *for* "Government" *read* "Chief Commissioner." In section III, clause *Second*, *omit* "by the Collectors, under the provisions of Regulation XIX, 1816." In the same section, clause *Third*, *for* "Superintendents of Police" *read* "Commissioners of Divisions," and *for* "Government" *read* "Chief Commissioner," and *add* "who shall fix the rates of toll to be levied at such ferries." In section IV, clause *First*, *omit* "for limiting the rates of toll to be levied at each ferry." In section V, *omit* "and in that of the Collector of the District." In section VI, clause *Second*, *for* "Superintendents of Police" *read* "Commissioners of Divisions," and *for* "Government" *read* "Chief Commissioner." In section VII, clause *First*, *omit* "they shall fix the rates of toll on a very moderate scale in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816." In the same section, clause *Third*, *for* "Government" *read* "Chief Commissioner," *for* "Bengal Fussily year according to the *era* current in the province" *read* "term of his lease." In the same section, clause *Fourth*, *for* "Magistrate and Collector," *read* "Deputy Commissioner," and *omit* "European." In section X, *omit* "from" and including the words "in the manner" down to the end of the section, and substitute "in the manner prescribed for recovery of arrears of revenue." In section XI, *for* "Magistrates reserve to themselves" *read* "the Chief Commissioner reserves to himself." In section XII, clause *First*, line one, *for* "Magistrate" *read* "Chief Commissioner," and in line four *omit* "said." In section XIII, *omit* the *Second* clause. In section XIV, *omit* the second sentence, and *for* "Superintendents of Police" *read* "Commissioner of Division."
XI of 1822 ...	Non-liability of Government for errors of a Court of Justice.	*Omit* the whole except section thirty-eight.
VI of 1825 ...	Supply of troops on the march.	In the preamble, *omit* the last twenty words. In section IV, *for* "Board of Revenue in whose jurisdiction the district may be situate" and "the Board" *read* "Commissioner." In section V, *omit* "on the stamped paper prescribed for other appeals to the Revenue Boards," and *for* "proper Board" and "the Board" *read* "Commissioner."
XI of 1825 ...	Alluvion and Diluvion ...	*Omit* section I. In section III, *omit* "either" and "or the sea."

Number and year.	Subject.	Modifications.
		In section IV, clause *First*, *omit* "whether" and "or of the sea," and *for* "the provisions of Regulation II, 1819, or of any other Regulation," *read* "any law in force for the time being;" clause *Third*, *omit* "or in the sea" and "or sea;" clause *Fifth*, *omit* "or the sea." In section V, *for* "Zillah and City Magistrates" *read* "Deputy Commissioners."
XX of 1825 ...	Military Courts of Requests	*Omit* sections I, III, and IV and section II, clause *Sixth*. In section II, clause *First*, *omit* from the beginning down to and including "provided that;" and *for* "His Majesty or of the Hon'ble East India Company" *read* "Her Majesty;" and *for* "not within the territories subject to the Presidency of Fort William or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency" *read* "within Oudh;" and *for* "a person attached to such body of troops in any of the capacities specified in sections XLV and LX of Statute IV, Geo. IV, cap. LXXXI," *read* "otherwise subject to the provisions of the Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force;" and *omit* "as directed in such cases in the Regulations abovementioned;" and *for* "Act of Parliament" *read* "the Mutiny Act for the time being in force." In the same section, clause *Third*, *for* "Act of Parliament" *read* "Mutiny Act;" and *for* "Magistrate of the Zillah or City" *read* "Deputy Commissioner." In the same section, clause *Fourth*, *for* "Zillah and City Magistrates" *read* "Deputy Commissioners;" and *omit* "of the nature described in section II of Statute IV, Geo. IV, cap. LXXXI," and "under the provisions of the said Act" and "under the provisions of the Regulations hitherto in force."

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Modifications.
XIII of 1857 ...	Opium	In preamble, *after* "the Presidency of Fort William in Bengal" *read* "and the territories under the administration of the Chief Commissioner of Oudh." In section II, *after* "Presidency of Fort William in Bengal," *read* "and the administration of the Chief Commissioner of Oudh." In section III, *omit* "being covenanted servants of the Company."
XL of 1858 ...	Minors	In the title, *for* "the Presidency of Fort William in Bengal" *read* "Oudh." In section II, *for* "estates paying revenue to Government" *read* "mahâls assessed to revenue or held revenue-free."

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 12, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th July 1876 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate and define the law relating to Land-Revenue in Oudh was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Endorsement, Department of Revenue, Agriculture and Commerce, No. 900 $\frac{L. R.}{8}$, dated 19th September 1872, forwarding—

Letter from Personal Assistant to Chief Commissioner, Oudh, No. 2779, dated 5th August 1872, and enclosures.

From Officiating Personal Assistant to Chief Commissioner, Oudh, No. 82, dated 10th January 1873, and enclosures.

From Officiating Secretary to Chief Commissioner, Oudh, No. 5208, dated 10th November 1875, and enclosures.

„ ditto ditto ditto, No. 5686, dated 14th December 1875, and enclosures.

„ ditto ditto ditto, No. 1850, dated 20th April 1876, and enclosures.

„ ditto ditto ditto, No. 1962, dated 28th April 1876, and enclosures.

Note by Hon'ble J. F. D. Inglis, dated 20th June 1876.

„ by Chief Commissioner, Oudh, dated 5th June 1876, and enclosures.

Office Memorandum from Department of Revenue, Agriculture and Commerce, No. 503, dated 11th July 1876, and enclosure.

Preliminary.

2. We have omitted as unnecessary the definitions of 'Chief Commissioner' and 'Estate,' and replaced them by definitions of 'incumbrance,' 'agricultural year,' 'revenue officer' and 'revenue-free.'

Revenue Officers.

3. In Chapter II relating to Revenue-officers, we have made the following changes: For sections 2, 3 and 4 of the Bill as introduced, we have substituted a section (4) declaring that, subject to rules prescribed by the Governor General in Council, the Chief Commissioner shall appoint Commissioners, Deputy Commissioners and Assistant Commissioners. We have authorized the Chief Commissioner to place any Assistant Commissioner of the first class in charge of one or more subdivisions, and to delegate this power to the Deputy Commissioner of the district. We have also empowered the Chief Commissioner, subject to rules prescribed by the Governor General in Council, to invest

any Assistant Commissioner in charge of a subdivision with the powers of a Deputy Commissioner. We think that Deputy Commissioners of the district and Assistant Commissioners in charge of subdivisions should be empowered to transfer cases to, and withdraw cases from, their subordinates, and we have introduced a section (10) for this purpose. We have provided (section 11) for the administration of a district in case of a temporary vacancy in the office of the Deputy Commissioner. We have, lastly, copied from Act XIX of 1873 the useful provision, that when an officer invested with powers in one district is transferred to an equal or higher office in another district, he shall be held to have the same powers in the latter district.

Settlement.

4. Section 14 of the Bill as introduced specified the documents of which the settlement record is to consist. We think it preferable merely to provide that the Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what those documents shall be.

5. We have declared (section 18) that every settlement shall be deemed to be in progress until its closing is duly notified, and that all districts in which settlements are now in progress shall be deemed to be under settlement for the purpose of that section.

6. We have transferred from the Oudh Civil Courts Act (XXXII of 1871) a section (20) empowering the Chief Commissioner to invest Settlement Officers with the powers of Civil Courts in suits relating to revenue-paying land.

7. We have declared (section 26) that in case of a taluqdárí mahál the settlement shall be made with the taluqdár.

8. We have provided (section 31) for the enforcement of the custom of periodical redistribution of land and adjustment of revenue.

9. We have expanded the provisions contained in the Bill as introduced, as to the exclusion of a taluqdár or proprietor refusing to accept settlement. We have provided (section 32) that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council; and we have raised the amount of the allowance to excluded proprietors.

10. We have directed (section 40) the Settlement Officer to determine the rent to be paid to the proprietor by under-proprietors and by holders of heritable, non-transferable leases, (other than tenants with right of occupancy,) whose rent has not been fixed by contract; and we have declared that whenever rent payable by such under-proprietors or lessees has been determined by a Settlement Officer, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

11. We have declared that all land shall be deemed liable to be charged with payment of revenue, and that no length of occupancy shall discharge such liability.

12. We have provided (section 46) for the alteration of assessment during the currency of a settlement, and (section 47) for the assessment of land added by alluvion. We have provided in the case of such land for the increase of a fixed rent in proportion to the increase of revenue effected by the assessment. Where the revenue assessed on a mahál has been reduced, remitted or suspended, we have declared (section 49) that the under-proprietor shall be entitled to a corresponding reduction, remission or suspension.

13. We have declared, in conformity with Regulation XIX of 1793 and other Regulations of the Bengal Code, that rent-free grants made by proprietors or the persons through whom they claim shall be liable to resumption except when such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner; but we have required proprietors wishing to resume such grants to apply to the Civil Court for a declaration of the right to resume, and we have exempted, wholly or partially, from the operation of these provisions, (*a*) land which the grantor has expressly agreed not to resume, (*b*) land held rent-free under a judicial decision, and (*c*) land held rent-free and acquired before the passing of the proposed Act, where the right to resume has been barred by the law of limitation. We have also provided (section 56) for fixing the rent of land declared liable to resumption.

Registration and the Revenue record.

14. We have provided (section 57), with more particularity than was thought necessary, for the lists and registers of rights in land to be prepared and maintained by the Deputy Commissioner on the basis of the settlement record. And we have declared that all entries in such lists or registers shall be made with reference to actual possession, and that all persons not in possession, but claiming the right to be so, shall be referred to the Civil Court.

15. We have required (section 62) all persons obtaining possession of land as proprietors, under-proprietors, lessees whose rents have been fixed by a Settlement Officer, or mortgagees, to give notice to the Tahsíldár or the Deputy Commissioner. And where the Deputy Commissioner cannot satisfy himself as to which party is in possession of any such land, we have required him to ascertain the fact by summary enquiry.

Partition and Union of Mahals.

16. We have inserted a chapter (V) dealing with the partition and union of mahals, which is founded on Act XIX of 1863—the law on this subject now in force in Oudh; but we have endeavoured to simplify the provisions of that Act. We have given an appeal within one year from the decision of the Deputy Commissioner confirming a partition. We have added definitions of 'perfect partition' and 'imperfect partition'. We have allowed any co-sharer to claim an imperfect partition, provided that the consent of recorded co-sharers holding in the aggregate more than a moiety of the property has been first obtained. We have provided for the partition of taluqdárí and under-proprietary mahals and of mahals held by lessees whose rent has been fixed by a Settlement Officer, subject to rules made by the Chief Commissioner as to when such partitions shall or shall not be permitted. In the case of the partition of a taluqdárí mahál, we have provided (section 101) for the assignment or partitioning of the inferior mahals and for duly limiting the joint responsibility of the co-sharers.

17. When the partition of a mahál in respect of which rent is payable is effected, we have directed the Deputy Commissioner to fix the amount payable in respect of each portion, and we have empowered the person entitled to such rent to obtain a decision as to his objections (if any) to the distribution of the rental.

Maintenance of Boundaries.

18. We have inserted a chapter (VI) on the maintenance of boundaries, the provisions of which correspond with those of Act I of 1847 and of sections 140—144 of Act XIX of 1873.

Collection of Land-Revenue.

19. In the chapter (VII) relating to the collection of land-revenue, we have made no substantial change, except that we have declared (section 117) that no person exempted from personal attendance in the Civil Court, no taluqdár and no female shall be subject to arrest or imprisonment, and we have provided that the Deputy Commissioner may realize as arrears of revenue all arrears of rent, due by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, in respect of land attached, or of which the settlement has been annulled.

20. We have inserted a section (135=section 28 of Act I of 1845) empowering the Chief Commissioner to direct a sale of land for arrears of revenue to be made subject to incumbrances.

21. We have provided (section 140) that such sales must be made either by the Deputy Commissioner or by an Assistant Commissioner specially appointed by him.

22. We have by section 159 entitled the proprietor of a mahál or pattí held in sub-settlement, or under a heritable, non-transferable lease, the rent payable under which has been fixed by a Settlement Officer, to apply to the Deputy Commissioner to realize the arrears of such rent as arrears of revenue.

Court of Wards.

23. We have transferred from the Oudh Laws Bill the chapter relating to the Court of Wards. In so doing we have extended the section relating to disqualified persons so as to apply to females deemed by the Chief Commissioner incompetent to manage their estates, to persons physically incapable of managing them, to persons convicted of non-bailable offences and disqualified by vice or bad character from managing their estates, and lastly, to persons declared by the Chief Commissioner on their own application to be disqualified. We have also declared (section 174) that persons whose property is under the superintendence of the Court of Wards, shall be incompetent, without the sanction of the Court, to create charges upon such property. We have provided for suits by and against disqualified proprietors, and we have inserted rules relating to managers equivalent to those contained in Act XIX of 1873, section 206. Lastly, we have, in section 177, amended Act XL of 1858 so as to render it applicable to all mahals, whether assessed to revenue or held revenue-free.

Powers of Officers.

24. Chapter IX is new. It deals with the powers of Assistant Commissioners, Settlement Officers and Assistant Settlement Officers, and is to some extent founded on sections 234 and 235 of Act XIX of 1873.

Appeals. Arbitration.

25. Chapter X deals with appeals, and Chapter XI with references to arbitration. Both are new. The latter is to a large extent taken from Act XIX of 1873.

Patwáris.

26. In section 208 it is provided that the Chief Commissioner may make rules respecting the appointment of Patwáris. This is not intended to preclude the free discussion of the claim of the taluqdárs to make such appointments, which is still under the consideration of the local authorities.

27. The publication directed by the Rules for the conduct of legislative business has taken place; but the Bill has been so altered that we think it should be re-published, with this report, in the *Gazette of India*, and also in the local Gazette, and that its further consideration should be stayed for two months.

JOHN INGLIS.
R. H. DAVIES.
A. HOBHOUSE.
E. C. BAYLEY.
T. C. HOPE.
F. R. COCKERELL.

SIMLA:
The 22nd July 1876.

No. II.

THE OUDH LAND REVENUE BILL, 1876.

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A Bill to consolidate and define the law relating to Land Revenue in Oudh.

Whereas it is expedient to consolidate and define the law relating to land-revenue in Oudh; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Oudh Land Revenue Act, 1876":

Local extent.

It extends only to the territories now under the administration of the Chief Commissioner of Oudh;

Commencement.

And it shall come into force on the passing thereof.

But all rules now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, continue in force until they are superseded by rules made in exercise of the powers hereinafter conferred.

Interpretation-clause.

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

"Incumbrance."

(1) "incumbrance" means a charge upon or claim against land arising out of contract between private persons:

"Agricultural year."

(2) "agricultural year" means a year commencing on the first day of July and ending on the thirtieth day of June:

"Revenue officer."

(3) "revenue officer" means any officer powered to dispose of any matter under this Act:

"Revenue-free." "Free of revenue."

(4) "revenue-free" or "free of revenue" applies to land whereof the revenue has been wholly or in part released, compounded for, redeemed or assigned.

CHAPTER II.

REVENUE OFFICERS.

Chief Controlling Revenue Authority in revenue matters.

3. The Chief Controlling Revenue Authority in all matters connected with land-revenue in Oudh shall be the Chief Commissioner.

Commissioners of Division.

4. Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner shall—

(*a*) appoint in each Division a Commissioner, who shall, subject to the control of the Chief Commissioner, exercise authority over all the Revenue Officers in his Division:

Deputy Commissioner of the District.

(*b*) appoint in each district an officer who shall be the Deputy Commissioner of the District:

Assistant Commissioner.

(*c*) appoint to each district as many other persons as he thinks fit to be Assistant Commissioners of the first or of the second class,

Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Chief Commissioner may suspend or remove any officer appointed under this section.

5. All such Assistant Commissioners, and all other persons employed in maintaining revenue-records or otherwise in or about the business of the land-revenue, shall be subordinate to the Deputy Commissioner of the District.

Subordination of Assistant Commissioners and other Revenue Officers.

6. The Chief Commissioner may place any Assistant Commissioner of the first class in charge of one or more Sub-divisions of a District, and may at any time remove him therefrom.

Assistant Commissioner in charge of Sub-division of District.

Such Assistant Commissioner shall be called an Assistant Commissioner in charge of a Sub-division of a District, and shall exercise the powers and discharge the duties conferred and imposed upon him by this Act or by any other law for the time being in force, subject to the control of the Deputy Commissioner of the District.

The Chief Commissioner may, from time to time, delegate his powers under this section to the Deputy Commissioner of the District, and may revoke such delegation.

7. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer on any Assistant Commissioner in charge of a Sub-division of a District all or any of the powers of a Deputy Commissioner; and all powers so conferred shall be exercised subject to the control of the Deputy Commissioner of the District.

Power to invest certain Assistant Commissioners with powers of Deputy Commissioner.

8. Every officer of a Sub-division of a District employed in maintaining revenue-records or otherwise in or about the business of the land-revenue shall be subordinate to the Assistant Commissioner (if any) in charge of such Sub-division, subject to the general control of the Deputy Commissioner of the District.

Subordination of Revenue Officers.

9. Subject to such rules as the Governor General in Council from time to time prescribes in this behalf, the Chief Commissioner may confer upon any person all or any of the powers of an Assistant Commissioner of the first or of the second class, and may, in conferring those or any other powers under this Act, empower persons by name, or classes of officials generally by their official titles, and may vary or cancel any order conferring powers under this Act.

Conferring of powers.

Power to vary and cancel orders conferring powers.

10. The Deputy Commissioner of the District, or any Assistant Commissioner in charge of a Sub-division of a District, may make over any case, or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision, from his own file to any of his subordinates competent to deal with such case or class,

Transfer of cases to subordinates.

or may withdraw any such case, or class of cases from any Revenue Officer subordinate to him, and may deal with such case or class himself, or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Power to withdraw cases from subordinates.

11. If the Deputy Commissioner of the District dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the District in revenue matters shall be held to be the Deputy Commissioner of the District under this Act until the Chief Commissioner appoints a successor to the Deputy Commissioner so dying or disabled, and such successor takes charge of his appointment.

Deputy Commissioner of the District in case of temporary vacancy.

12. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers in the District to which he is so transferred.

Powers of officers transferred to another district.

13. Tahsíldárs shall be appointed by the Chief Commissioner, subject to such rules as to qualification or otherwise as the Chief Commissioner may from time to time make under section 208.

Appointment of Tahsíldárs.

CHAPTER III.

SETTLEMENT.

14. Whenever the Chief Commissioner thinks that any District or other local area liable to be brought under settlement should be so brought, he shall, with the previous sanction of the Governor General in Council, publish a notification to that effect.

Notification as to settlement.

And if he thinks that a settlement record should be prepared for any District or other local area, he shall, with the like sanction, publish a notification to that effect.

Notification as to settlement record.

15. The Chief Commissioner shall, from time to time, with the previous sanction of the Governor General in Council, frame and issue rules regarding the mode in which the revenue demand in respect of any local area is to be assessed; and may from time to time make rules prescribing the manner in which Settlement Officers shall report for sanction the rates and method of assessment and the amounts they propose to assess.

Chief Commissioner to issue rules as to mode of assessment.

16. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, determine what documents shall form the settlement-record, and frame and issue rules regarding (*a*) the mode in which such record is to be prepared, (*b*) the facts to be therein entered, and (*c*) the manner in which the entries shall be attested.

Settlement record.

The Chief Commissioner may from time to time, with the same sanction, alter such rules.

17. Every entry in such settlement record duly made and attested shall, until the contrary is proved, be presumed to be a correct record of the fact entered.

Presumption as to entries in settlement record.

18. Every local area shall be held to be under settlement from the date of any notification published under section 14, and relating thereto, until the issue of another notification declaring settlement operations to be closed therein.

Settlement to be deemed in progress until closing notified.

Every local area under settlement at the time of the passing of this Act shall be held to be under settlement within the meaning of this section without the issue of either of the notifications prescribed by section 14.

Settlements now in progress brought under operation of Act.

19. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, appoint an officer to be in charge of the settlement of any local area and as many Assistant Settlement Officers as the Chief Commissioner thinks fit; and such officers shall exercise the powers conferred on them respectively under this Act so long as such area is under settlement.

Appointment and powers of Settlement Officers.

20. In any local area in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the previous sanction of the Governor General in Council, may by order confer on any officer making or controlling such settlement the powers of a Civil Court of any specified grade for the purpose of trying suits and appeals, or any specified class of suits and appeals, relating to property in land assessed or assessable to revenue, in such District, and may revoke any such order; and so long as such order remains in force the jurisdiction of the Civil Courts of the same grade shall be excluded in respect of such suits and appeals.

Power to invest Settlement Officers with powers of Civil Courts in certain cases.

21. Notwithstanding the existence of any such order, the Chief Commissioner may from time to time direct that any cases pending before the Settlement Officers invested with the powers mentioned in section nineteen, shall be transferred to the ordinary Civil Courts of the District if the state of business in his opinion requires such transfer.

Power to transfer cases from Settlement Officers to Civil Courts.

22. If a suit relating as well to such land as other property be instituted before any officer so invested, he shall make a reference regarding the disposal of such suit to the Commissioner of the Division in which the District wherein the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Trial of suit relating to land and to other property.

23. When any local area is under settlement, the Settlement Officer shall have power to call upon all proprietors, by proclamation to be stuck up in some conspicuous place in each village, to erect within fifteen days such boundary-marks as he may think necessary to define the limits of their villages, maháls or fields; and in default of their compliance within the time specified in the notice, he may cause such boundary-marks to be erected, and he shall recover the cost of such erection from the proprietors as if it were an arrear of land-revenue.

Powers of Settlement Officers as to erection of boundary-marks and decision of disputes.

In case of dispute concerning any boundary-marks, the Settlement Officer shall decide such dispute on the basis of possession, or may refer it to arbitration, for decision on the merits as provided for in sections 192 to 203, both inclusive.

24. All Settlement Officers, and all officers in charge of a survey made in connection with the revenue, and their assistants, servants, agents and workmen, may do all acts necessary for any purpose connected with the settlement or survey, as the case may be.

Power of Settlement and Survey Officers to do necessary acts.

25. The Settlement Officer may order all persons whose presence is, in his opinion, necessary for any of the purpose of this chapter, to attend at any specified time and place, and to produce any written document in their possession or power; and all such persons shall be legally bound to obey such order.

Power to require attendance of persons concerned, and production of documents.

26. The settlement shall be made

With whom settlement to be made.

(*a*) in the case of a taluqdárí mahál with the taluqdár,

(*b*) in the case of other mahálsl with the proprietor of the mahál; or if in any such mahál there are two classes of proprietors, superior and inferior, with either of such classes as the Chief Commissioner directs,

or if the taluqdár or proprietor has transferred possession of his mahál to a mortgagee or conditional vendee, then with such mortgagee or vendee.

If, at the time of settlement, a mahál, or any share thereof, be in the possession of a lunatic, minor or other person incapable of making a contract, the settlement shall be made on his behalf with his guardian or with the manager of his property.

Settlement of estate in possession of lunatic or minor.

27. When several persons are in possession of a mahál, not being a taluqdárí mahál, the Settlement Officer shall have power to make a joint settlement with all such persons, or with their representatives.

Power to make joint settlement with several proprietors or their elected representatives.

28. The Settlement Officer shall, in accordance with the rules made under section fifteen, frame general proposals of assessment for any local area or any portion thereof regarding which a notification has been published under the first clause of section fourteen, and shall report such proposals through the Commissioner of the Division to the Chief Commissioner.

Framing and reporting general proposals of assessment.

29. After the receipt of the orders of the Chief Commissioner thereon, and subject to such orders, the Settlement Officer shall ascertain the amount of the assessment proper for each mahál in such area, and shall declare the same to the person with whom the settlement of such mahál is to be made.

Detailed assessment and declaration thereof to persons concerned.

If any mahál in any such area comprise two or more villages, or portions of villages, the Settlement Officer shall declare the assessment due on

each of such villages or portions of villages, together with the aggregate amount of the assessment proper in his opinion for the whole mahál.

Such declaration shall be made on a date to be notified by proclamation at the tahsíl in which such mahál is situate.

30. If the persons with whom the settlement of such mahál is to be made agree to the assessment so proposed, they and those (if any) whom they represent in interest shall become liable from the date of such agreement, or from such subsequent date as the Chief Commissioner directs, to pay such assessment in respect of such mahál.

Effect of agreement to assessment proposed.

and in a mahál in which the land, or part of the land is held in severalty, the Settlement Officer shall distribute such assessment on the lands so held.

Distribution of assessment.

31. In any mahál where, by the established custom, the land or the amount of revenue payable by each co-sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of one or more of the co-sharers, enforce such re-distribution or re-adjustment according to such custom.

Enforcement of custom as to re-distribution of land and adjustment of revenue of shares.

32. If the person to be settled with be a taluqdár and such taluqdár refuse to accept the assessment offered by the Settlement Officer in respect of his entire taluqá, or in respect of any portion thereof, or if, within thirty days from the date of the declaration by the Settlement Officer under section 29, such taluqdár fail to accept such assessment, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner.

Exclusion of taluqdár declining or failing to accept settlement.

The Chief Commissioner, after hearing and considering the reasons which the taluqdár may have to urge against the assessment, may direct that the taluqdár so refusing or failing be excluded fromthe settlement of his entire taluqá, or of any portion thereof, for such term not exceeding fifteen years from the date of such direction, as the Chief Commissioner shall fix; and the Settlement Officer or Deputy Commissioner shall either farm the taluqá or any portion thereof or hold it under direct management during such term, or any part thereof: provided that no taluqdár shall be excluded from the settlement of his entire taluqá without the previous sanction of the Governor General in Council.

33. If a taluqdár be excluded from the settlement of any portion of his taluqá, and if such portion be held in sub-settlement by an under-proprietor, the farm of such portion shall be offered to such under-proprietor on such terms as the Chief Commissioner may in each case direct.

Offer of farm to under-proprietor.

34. If such under-proprietor accept the assessment so offered, the taluqdár so excluded shall be entitled to an allowance out of the profits of such portion to be fixed by the Chief Commissioner not exceeding the share of the gross assets, if any, to which he would have been entitled had he accepted the assessment.

Allowance to excluded taluqdár.

In other cases, the taluqdár so excluded shall (subject to the orders of the Chief Commissioner) be entitled to an allowance out of the profits of such portion of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

35. In a mahál other than a taluqdárí mahál, if the person to be settled with refuse to accept the assessment offered by the Settlement Officer, or fail to accept such assessment within thirty days from the date of the declaration by the Settlement Officer under section 29, the Settlement Officer shall report the case through the Commissioner of the Division to the Chief Commissioner,

Exclusion of person declining or failing to accept settlement in a mahál.

and the Chief Commissioner may direct that the person so refusing or failing be excluded from the settlement for such term not exceeding fifteen years from the date of such direction, as the Chief Commissioner thinks fit,

and the Settlement Officer or the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either farm the mahál or hold it under direct management during such term or any part thereof.

In such case the person so excluded shall be entitled (subject to the orders of the Chief Commissioner) to an allowance out of the profits of the mahál, of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

Allowance to person excluded.

36. If in a mahál held on a pattídárí or imperfect pattídárí tenure any of the co-sharers refuse or fail within thirty days from the date of the declaration by the Settlement Officer under section 29 to accept the proposed assessment, the shares of such co-sharers shall be dealt with under the provisions of section 35, and they shall receive an allowance, as provided in that section, in proportion to their respective shares in the mahál.

Procedure in case of some of several proprietors refusing assessment.

If the Settlement Officer farms any share in such mahál, the farm of such share shall be offered in the first instance to those co-sharers who have accepted the proposed terms.

Farm of shares of proprietors refusing.

37. Any proprietor excluded from settlement under sections 35 and 36 shall be entitled to hold as a tenant with a right of occupancy so much of the land in the mahál actually cultivated by him as the Settlement Officer may determine, and the rent to be paid by such proprietor for such land during such exclusion shall be fixed by the Settlement Officer at the rate which would have been paid by a tenant-at-will for the said land less four annas in the rupee.

Adjustment of rent of the sír land of proprietors of mahál farmed under section 35 or 36.

38. The aggregate amount of any allowance assigned under section 35 or section 36 to any proprietor of a mahál who has been excluded from settlement, and of the difference between the rent fixed under section 37, and the rent which he would be liable to pay if he were a tenant-at-will,

Amount of allowance assigned under section 35 or 36 to excluded proprietor, and of difference between rent fixed under section 37, and rent payable by him if he were a tenant-at-will.

shall not be less than five or more than fifteen per cent. on the amount proposed by the Settlement Officer to be assessed on such mahál.

39. On the expiration of the term fixed under section 32 or section 35, the settlement of such mahál portion, or share comprised therein shall be offered by the Deputy Commissioner to the person then entitled to be settled with in respect of such mahál portion or share, at such assessment for the remainder of the term of settlement of the District as the Chief Commissioner may direct.

Offer of settlement to excluded proprietor on expiry of term of exclusion.

And if such person refuse to accept the offer, the Deputy Commissioner shall report such refusal through the Commissioner of the Division to the Chief Commissioner, and such person may be excluded from settlement for such period not exceeding the term of the settlement of the District, as the Chief Commissioner may direct, and the provisions of sections 32 to 38 (both inclusive) shall, so far as may be applicable, apply to his case.

Procedure on refusal.

40. The Settlement Officer shall, in accordance with the provisions of the Oudh Sub-settlement Act, 1866, so far as they are applicable, determine the rent to be paid to the proprietor by all under-proprietors in a mahál and by all holders of heritable, non-transferable leases, whose rent has not been fixed by contract.

Determination of rent payable to proprietor.

When the rent is so determined the co-sharers may at their option agree with the Settlement Officer that the rent shall be paid either by them collectively or by one of them on behalf of himself and the others. Whenever, whether before or after the passing of this Act, rent payable by such under-proprietors or lessees has been determined by a Settlement Officer, all the co-sharers shall be jointly and severally responsible for the payment to the proprietor of the rent so determined.

Nothing in this section applies to rent payable by a tenant with a right of occupancy.

41. All land shall be deemed liable to be charged with the payment of revenue to Government, unless some competent authority has declared it exempt from such payment. And no length of occupancy of any land, nor any grant of land made by the proprietor, shall release such land from such liability.

Saving of liability for Government revenue.

42. The Settlement Officer shall enquire into the case of all lands released, conditionally or for a term, from the payment of revenue, and shall assess such lands if it appear to him that the conditions have been transgressed or the term has expired.

Inquiry into cases of land released from payment of revenue.

43. Every settlement shall be made subject to confirmation by the Governor General in Council.

Confirmation of settlement.

44. The Governor General in Council shall, at some time before confirming the settlement, fix the period for which the settlement is to be made. Such period shall be fixed with reference to the agricultural year.

Period for which settlement is to be made.

45. The assessment of any mahál may be revised at any time before it is confirmed by the Governor General in Council, and in such case the revised assessment shall be proposed to the proprietors of such mahál, and the provisions of sections 23 to 40 (both inclusive) shall apply.

Revision of assessment before confirmation.

Alteration of assessment during the currency of a Settlement.

46. The Deputy Commissioner shall enquire annually into the cases of all land released from the payment of revenue conditionally, or for a term, or for the life of the grantee.

Annual enquiry as to revenue-free grants.

If the condition be broken, he shall report the case through the Commissioner of the Division to the Chief Commissioner for orders,

and if the term has expired, or (where the grant is for the life of the grantee) if the grantee has died, the Deputy Commissioner shall assess the land comprised therein, and shall report his proceedings through the Commissioner of the Division to the Chief Commissioner for sanction.

47. All land added by alluvion to a mahál is liable to assessment. Such land may be assessed and settled under rules to be framed under section 208.

Assessment of land added by alluvion.

48. Where such land is held by an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such rent shall be increased proportionately to the increase of revenue effected by such assessment.

Proportionate increase of rent payable by under-proprietor.

49. Where for any cause the revenue assessed on a mahál has, by order of the Chief Commissioner, been reduced or been wholly or in part remitted or suspended, and the land on account of which the revenue has been so reduced, remitted or suspended is in the possession of an under-proprietor or lessee whose rent has been fixed by a Settlement Officer, such under-proprietor or lessee shall be entitled (where the revenue has been reduced or remitted) to a proportionate reduction or remission of the rent payable by him in respect of such land, or (where the revenue has been suspended) to a suspension of the payment of such rent for the time during which the revenue has been so suspended.

Proportionate reduction or remission of rent payable by under-proprietor or lessee.

50. Assessments under sections 46 and 47 shall be made by the Deputy Commissioner in the same manner and with the same powers as if he were an officer in charge of a settlement.

Deputy Commissioner to have powers of officer in charge of settlement.

51. At any time during the currency of a settlement, the Chief Commissioner may, with the previous sanction of the Governor General in Council, invest any officer with all or any of the powers of an officer in charge of a settlement under this Act within such limits, and with such restrictions, and for such period as he thinks fit;

Power to invest officer with Settlement Officer's powers.

but not so as to enable him to enhance the total amount of revenue payable on account of any

mahál except in respect of land added thereto or becoming liable to payment of revenue since the confirmation of the settlement.

Resumption of rent-free grants.

52. All grants (whether in writing or otherwise) by proprietors or the persons whom they represent of land to be held exempt from the payment of rent are hereby declared to be liable to resumption, unless such grants have been sanctioned or confirmed by the Governor General in Council or the Chief Commissioner.

Liability of rent-free grants to resumption.

53. Provided that grants of land held under a written instrument (whether executed before or after the passing of this Act) by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid against him (but not as against his representatives after his death) during the continuance of the settlement of the District in which the land is situate which was current at the date of the grant.

Grants under certain instruments.

54. Proprietors wishing to resume grants made by themselves or the persons whom they represent shall apply by petition to the principal Court of original civil jurisdiction of the District in which the land is situate for a declaration of the liability of the grant to resumption.

Application for declaration of such liability.

The Court shall cause notice of such application to be served on the grantee, and shall fix a day for hearing his objections (if any) to the declaration; and thereupon, after considering such objections (if any), may either dismiss the application with or without costs to be paid by the applicant, or declare that the grant is liable, in whole or in part, to resumption.

55. Nothing in section 52, section 53, or section 54 applies to either of the following cases:—

Exemptions from sections 52, 53 and 54.

(*a*) where land is held rent-free under a judicial decision;

(*b*) where previously to the passing of this Act, land held rent-free has been acquired for a valuable consideration and the right to resume it has been barred by the law of limitation.

56. The amount of rent payable in respect of land which has been declared by a Civil Court liable to resumption shall, when the district in which the land is situate is under settlement, be determined by the Settlement Officer and in every other case by the Deputy Commissioner of the District.

Rent of land declared liable to resumption.

CHAPTER IV.

REGISTRATION, INCLUDING THE PREPARATION AND MAINTENANCE OF REVENUE RECORDS.

57. The Deputy Commissioner of the District shall, on the basis of the settlement record, and in accordance with such rules as the Chief Commissioner from time to time prescribes in this behalf, prepare the following lists and registers:—

Lists and registers to be prepared by Deputy Commissioner.

(*a*) A list of all the villages in each pargana or tahsíl of his District;

The pargana register.

(*b*) A list of all the revenue-paying maháls in each pargana or tahsíl, shewing the revenue assessed on each mahál, and the name of the person responsible for its payment whether as sole proprietor or as lambardár;

The málguzárí register.

(*c*) A register of all the co-sharers in each mahál with the nature and extent of the interest of each co-sharer;

The khewat.

(*d*) A register of all mahals in which the rent of any under-proprietor or lessee has been fixed by the Settlement Officer, the names of all the co-sharers in such mahals, together with the nature and extent of the interest of such co-sharers.

Register of sub-settled mahals with khewat.

(*e*) For each mahál a list—

Register of under-proprietary and other tenures.

(1) of all under-proprietors and lessees whose rent has been so fixed, and of all tenants with a right of occupancy, with the nature and extent of the interest of each such person, and the rent (if any) which he is liable to pay therefor,

(2) of all other persons (if any) holding land free of rent, or revenue free.

(*f*) A register—

Register of revenue-free tenures.

(1) of all land in his District held revenue free, with the names of the holders, and the conditions of the grant under which they hold,

(2) of all land declared by competent authority to be waqf or nazul, or the property of the State.

(*g*) A register of all mahals on which a málikána allowance has been sanctioned by competent authority, with the names of the persons entitled to such allowance, the amount of such allowance, and the conditions under which it was given.

The málikána register.

(*h*) A register of all jungle-grants, the names of the grantees, and the conditions of the grants.

Register of jungle-grants.

58. In the preparation of the said lists and registers, the Deputy Commissioner shall correct any errors in the settlement records which the parties interested admit to have been made therein; and any dispute arising regarding any entry in such record shall be investigated and decided on the basis of actual possession; and all persons not in possession, but claiming the right to be so, shall be referred to a Court of competent jurisdiction, except where the claim is founded on the decision of such Court, and in such case the entry shall be in accordance with such decision.

Correction of errors in settlement record.

59. The Deputy Commissioner shall keep and maintain the said lists and registers,

Deputy Commissioner to keep the lists and registers.

and he shall from time to time cause to be registered all events and transactions affecting any of the rights or interests recorded in the said registers, to such extent as the Chief Commissioner may from time to time prescribe.

60. The Chief Commissioner shall prescribe the forms in which the lists and registers mentioned in section 57 are to be prepared,

Forms of lists and registers.

and the manner in which, the persons by whom, and the occasions on which, the alterations referred to in section 58 and section 59 are to be recorded.

61. The Chief Commissioner may prescribe proper fees for alteration in the lists and registers formed under the said rules: Provided that no fee for a single alteration shall exceed one hundred rupees.

Power to prescribe fees for mutations.

Such fee shall be levied from the person in whose favour the mutation is made, and shall be expended in such manner as the Chief Commissioner thinks fit.

Levy of fees.

Fees how spent.

62. All persons obtaining the possession of land or the profits thereof, whether by succession, purchase or other form of transfer, as proprietors or under-proprietors, or as lessees whose rents have been fixed by a Settlement Officer, or as mortgagees, shall give notice of the same immediately after it has taken place to the tahsíldár of the tahsíl in which the mahál to which such land belongs is situated, or to the Deputy Commissioner of the District.

Notice of transfer of possession.

If the notification be made to the tahsíldár, that officer shall report such notice to the Deputy Commissioner.

63. The Deputy Commissioner on receiving such notice or report shall make such enquiry as the Chief Commissioner may from time to time prescribe to ascertain the fact of the alleged transfer of the property, and if the transfer appears to have taken place, he shall, subject to the rules framed by the Chief Commissioner under section 208, record the same in the appropriate register:

Enquiry as to truth of transfer.

Provided that no such entry shall be held to affect the rights of any other person who may claim and establish in any Court of competent jurisdiction any interest in the land to which the entry has reference.

64. If the person so succeeding is a minor or otherwise under disability, the guardian or other person who has charge of his property shall give the notice required by section 62.

Notification in case of minority or other disqualification.

65. Any person neglecting to give the notice prescribed in section 62 within three months from the date of the occurrence of the fact to be notified, shall be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section 61.

Fine for neglect to notify.

66. If in the course of enquiry made under section 63, a dispute regarding the possession of the property arises, and the Deputy Commissioner is unable to satisfy himself as to which party is in possession, he shall ascertain by summary enquiry who is the person *primâ facie* entitled to the property and shall put such person in possession, and make the necessary entry in the record accordingly, subject to any order that may be subsequently passed by the Civil Court.

Power to put one party in possession in certain cases of dispute.

67. When any person obtains possession of land or of the profits thereof, for any interest other than those referred to in section 62, the transfer of such possession shall be recorded by the Kánúngo and patwárí in such manner as the Chief Commissioner from time to time directs;

Registry of transfers of interests in land other than those referred to in section 62.

and all disputed cases shall be reported to the Deputy Commissioner or Assistant Commissioner, who shall make such enquiry as may be necessary to ascertain the fact of the alleged transfer, and cause the record to be amended accordingly.

Enquiry in disputed cases.

68. All registers prepared under the preceding sections of this chapter shall be deemed to be public documents and the property of Government, and shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Chief Commissioner may from time to time prescribe.

Inspection of registers.

CHAPTER V.

PARTITION AND UNION OF MAHALS.

69. Partition is either perfect or imperfect.

Partitions.

'Perfect partition' means the division of a mahál into two or more mahals, severally responsible for the revenue assessed on each.

'Perfect partition.'

'Imperfect partition' means the division of any mahál, or of any portion of a mahál, into two or more portions jointly responsible for the revenue assessed on the whole mahál.

'Imperfect partition.'

70. Any recorded co-sharer in a mahál and any person in whose favour a decree has been passed by any Civil Court, awarding to him the proprietary right in a portion of a mahál, whether such portion consists of a fractional share in the whole or a part of the mahál, or of specific lands, is entitled to claim perfect partition of his share.

Persons entitled to perfect partition.

Any two or more recorded co-sharers may claim that their shares be divided from the other shares by a perfect partition, and be held by them as a single mahál.

If any recorded co-sharer be under disability, the person in possession of his property shall, for the purpose of this section, be deemed to be a recorded co-sharer.

71. Applications for perfect partition are to be made in writing to the Deputy Commissioner of the district in which the mahál is situated;

Application for perfect partition.

and shall be accompanied by a certified copy of the record, showing the share held by the applicant in the mahál:

Provided that, if the mahál be situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner any direct.

Provision as to estates situated in more than one district.

72. The Deputy Commissioner, on receiving an application for partition shall, if the application be in order and not open to objection on the face of it, publish a notification of the same at his office, and at some conspicuous place in the mahál to which the application relates,

Notification of application.

and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection, either in person or by a duly authorized agent, on a day to be specified in the notice, not less that thirty, or more than sixty, days from the date on which such notice was issued.

Notice to co-sharers not joining.

73. Where, from any cause, notice cannot be personally served on any co-sharer, the notification so published shall be deemed sufficient notice.

Notification when alone sufficient.

74. If, on or before the day so specified, any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Power to refuse partition when objection admitted.

75. If the objection raises any question of title, or of proprietary right, which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or he may proceed to enquire into the merits of the objection.

Procedure if question of title be raised.

In the latter case the Deputy Commissioner after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of chapter VI (relative to arbitrators) of the same Code shall apply to such references.

Procedure in such cases.

Reference to arbitration.

76. All orders and decisions passed by the Deputy Commissioner under the last preceding section, for declaring the rights of parties, shall be held to be decisions of a Court of civil judicature of first instance, and shall be open to appeal under the provisions of the Oudh Civil Courts Act.

Deputy Commissioner's decision equivalent to decision of Civil Court.

Appeal thereupon.

Upon such appeal being made, the appellate Court may issue a precept to the Deputy Commissioner, desiring him to stay the partition, pending the decision of the appeal.

Appellate Court may stay partition.

77. When it has been decided to make a partition under this chapter, the Deputy Commissioner shall either give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he shall make the partition himself or cause it to be made by any Assistant Commissioner subordinate to him, and when made by an Assistant Commissioner, it shall be reported to the Deputy Commissioner for his confirmation.

Option to make partition themselves or to appoint arbitrators.

78. If arbitrators are appointed, the provisions of sections 192 to 208, both inclusive, shall apply.

Partition by arbitrators.

In making a partition, arbitrators shall not be bound by the provisions of sections 81 to 84 both inclusive; but they shall deliver a full and complete paper of partition, specifying the separate maháls into which they propose that the mahál shall be divided; the names of the parties to whom the several maháls are proposed to be allotted, and the amount of land revenue which in the opinion of the arbitrators should be assessed on each of such maháls.

79. In making partitions, the Deputy Commissioner, and any person appointed by him, shall have the same powers to enter on the land under partition, for marking out the boundaries, surveying the mahál, and other purposes, as are conferred on Settlement Officers under this Act.

Power to enter on land for purposes of partition.

80. When a Deputy Commissioner has decided that a partition shall be made, he may, with the sanction of the Commissioner, hold the mahál under direct management, pending the completion of the partition.

Power to hold mahál under direct management, pending partition.

The provisions of the law in force for the time being, for the management of maháls held under direct management for arrears of revenue shall be applicable to maháls, the management of which is assumed under this section.

The collections of the mahál shall be applied to the payment of the Government revenue, and, after defraying the expenses of management and any other expenses with which the mahál is chargeable, the residue shall be divided amongst the recorded co-sharers in proportion to their respective shares at such periods as the Deputy Commissioner may see fit.

81. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate mahál, and shall be separately assessed to the Government revenue.

Partition of lands held only in severalty.

82. Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of such lands in accordance with village custom, if any such exist.

Partition of lands some of which are held in common.

If no such custom exist, the Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands.

83. The portion of the common lands falling by such partition to the share of the applicant shall be added to the land held by him in severalty, and the maháls thus formed shall be assessed and declared separate maháls.

Formation of separate mahálsfrom shares allotted in partition.

84. In making partitions under this Act, the Deputy Commissioner shall give effect to any transfer of lands held in severalty and forming part of the mahál, which has been agreed to by the parties, previous to the declaration of the partition.

Transfers to be effectuated in making partition.

85. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the mahál.

Partition where all lands are held in common.

86. In all cases each mahál shall be made as compact as possible: Provided that, except with the sanction of the Chief Commissioner, no partition be disallowed solely on the ground of incompactness.

Estate to be compact.

87. If in making the partition it be necessary to include in the mahál assigned to one sharer, the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with the buildings thereon (if any) on condition of his paying a reasonable ground-rent therefor to the sharer into whose portion it may fall.

Rule when dwelling-house of one sharer is included in mahál assigned to another.

The limits of such land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

88. Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Rule as to tanks, wells, water-courses and embankments.

Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the maháls into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each mahál may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived form such works, shall be divided.

89. Places of worship and burial-grounds, held in common previous to the partition of a mahál, shall continue to be so held, unless the persons who so held them otherwise agree among themselves.

Rules as to places of worship and burial-grounds.

In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

90. In all cases whether partition has been made by arbitrators or otherwise, the amount of revenue to be paid in respect of each portion of a mahál partitioned under this chapter shall be determined by the Deputy Commissioner, provided that the aggregate revenue payable in respect of the new maháls shall not exceed the revenue assessed on the mahál immediately before partition;

Determination of revenue payable by each division of a mahál.

and the proprietor of each new mahál shall be held liable for the portion of the revenue assessed on his mahál, whether a new engagement be taken from him or not.

Liability of proprietors.

91. If at any stage of any proceedings under this chapter there appear to be any reason for stopping the partition, the Deputy Commissioner may of his own motion, or on the report of the Assistant Commissioner making the partition, stay the partition and order the proceedings to be quashed.

Power to stay partition.

92. A partition, whether made by the Deputy Commissioner himself or otherwise, shall not be deemed to be complete unless the Deputy Commissioner has made an order confirming it.

Order confirming partition.

On making such order, he shall publish a notification of the fact at his office and at some conspicuous place in each of the new maháls,

Notification of order.

and the partition shall take effect on and from the first day of July next after the date of such notification.

Partition when to take effect.

93. An appeal against the decision of the Deputy Commissioner confirming a partition, shall lie to the Commissioner of the division within one year from the date on which such partition takes effect.

Appeal to Commissioner from orders of Deputy Commissioner.

94. Where the land-revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the land-revenue upon the several maháls into which the mahál has been divided, on an estimate of the assets of each mahál at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

95. Imperfect partition shall be carried out according to the provisions of sections 70 to 93 (both inclusive) so far as they are applicable: Provided that no application for imperfect partition shall be entertained unless the consent of recorded co-sharers holding in the aggregate more than one moiety of the property of which partition is sought be first obtained.

Making of imperfect partitions.

96. No Civil Court shall entertain any suit or application for perfect or imperfect partition.

Civil Courts barred from entertaining applications for partitions.

97. All imperfect partitions and all partitions perfect or imperfect of under-proprietary mahálsheretofore made, shall be deemed to have been made under the provisions of this Act.

Previous imperfect partitions and partitions of under-proprietary mahálsheretofore.

98. If two or more revenue-paying mahâls have originally formed portions of the same village, the proprietor shall be entitled to have such mahâls united and to hold them as a single mahâl.

Union of mahâls originally part of same village.

99. Every application for the union of such mahâls shall be made in writing to the Deputy Commissioner of the district in which the mahâls are situate.

Application for such union.

If the Deputy Commissioner see no objection, he shall comply with the application, and cause the necessary entries to be made in the register of his office, reporting the case to the Commissioner of the division.

Application how dealt with.

100. The provisions of this chapter, so far as they are applicable, may be applied by order of the Deputy Commissioner to the partition or union of mahâls held free of revenue.

Partition or union of revenue-free mahâls.

101. The partition of taluqdârî and under-proprietary mahâls and of mahâls held by lessees whose rent has been fixed by the Settlement Officer, shall be carried out accordingly to the provisions of sections 70 to 94 (both inclusive), so far as they are applicable.

Partition of taluqdârî and under-proprietary mahâls.

(*a*) In the partition of taluqdârî mahâls, all mahâls, whether under-proprietary or held by lessees whose rent has been fixed by the Settlement Officer shall, if practicable, be assigned to one or other of the new taluqâs to be formed by the partition;

Assignment of inferior mahâls.

(*b*) if any such mahâl cannot be assigned in whole, the assignment shall be made by thoks, pattîs or other existent sub-divisions;

(*c*) and if no other satisfactory arrangement can be made, such mahâl shall be partitioned;

(*d*) in cases in which one portion of any such mahâl is assigned to one taluqâ and another portion to another taluqâ, each portion shall be deemed a separate mahâl, the joint responsibility of the co-sharers being limited to such portion.

102. Whenever a partition of a mahâl in respect of which rent is payable is effected under this Act, the amount of rent to be paid in respect of each portion shall be determined by the Deputy Commissioner, and the person to whom such rent is payable may present an application in writing to the Deputy Commissioner objecting to the distribution of the rental over the several parts into which the mahâl has been divided, and praying that such objection may be heard and determined; and his objection shall be heard and determined, and the Deputy Commissioner shall record his reasons for such determination.

Objection to distribution of rental.

CHAPTER VI.

MAINTENANCE OF BOUNDARIES.

103. The Deputy Commissioner and his subordinates shall have power to enter upon and survey land, and to demarcate the boundaries of mahâls, villages and fields.

Power of Deputy Commissioner to enter and survey.

104. All owners of mahâls, villages or fields, are bound to maintain and keep in repair at their own cost the boundary-marks lawfully erected thereon.

Obligations of owners as to boundary-marks.

105. Any person convicted before a Deputy Commissioner of wilfully erasing, removing or damaging any such boundary-mark, may be ordered by the convicting officer to pay such sum not exceeding fifty rupees for each mark so erased, removed or damaged, as may be necessary to defray the expense of restoring such mark, and of rewarding the informer (if any) through whom the conviction was obtained.

Payment for erasing, removing or injuring marks.

106. Whenever the person erasing, removing or damaging any such mark cannot be discovered, or if for any other reason the sum which he has been so ordered to pay cannot be recovered, the mark shall be re-erected or repaired at the charge of the owner or owners of such one or more of the conterminous field or mahâls as to the Deputy Commissioner seems fit.

Who is to be charged for re-erection and repair when offenders not discoverable.

107. The Deputy Commissioner may decide, on the basis of possession, all disputes concerning boundaries, and may at any time direct the owners of mahâls villages or fields, by written notice served upon them,

Powers of Deputy Commissioner as to boundary disputes and boundary-marks.

(*c*) to cause proper boundary-marks to be erected in such mahâls, villages or fields,

(*b*) to repair the boundary-marks lawfully erected in such mahâls, villages or fields.

108. In default of compliance with such direction within fifteen days from the date of the service of the notice, the Deputy Commissioner shall cause such boundary-marks to be erected or repaired, as the case may be, and shall charge the cost of such erections or repairs to the owners of the conterminous mahâls, villages or fields in such proportion as he thinks fit.

Power to erect or repair boundary-marks.

CHAPTER VII.

COLLECTION OF THE LAND-REVENUE.

109. In the case of every mahâl the entire mahâl shall be charged with, and all the proprietors jointly and severally shall be responsible to Government for the revenue for the time being assessed on the mahâl.

Responsibility of proprietors of mahâl for land-revenue.

The term "proprietors" shall, for the purposes of this chapter, include all persons in possession for their own benefit.

110. The Chief Commissioner may, from time to time, make rules as to the instalments in which, and the persons, places and times to whom, and at which, the revenue payable in respect of any land shall be paid.

Chief Commissioner may make rules as to payment of revenue.

111. Until the issue of such rules the said revenue shall be paid in the instalments, to the persons, and at the times and places in which, to whom, and at which, it is now paid.

Payment until issue of rules.

112. Any sum not so paid becomes thereupon an arrear of revenue, and the proprietor responsible for it becomes a defaulter.

Effect of non-payment.

No interest shall be demanded on any arrear of land-revenue.

113. If the settlement of any land has been made with a lambardár, and if there be an arrear of revenue due in respect of such land, both the lambardár and the co-sharers of the mahâl from which the arrear is due shall be deemed defaulters.

Defaulters in case of settlements with lambardárs.

114. A statement of account certified by the tahsîldar shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

Evidence of arrear.

115. When an arrear of land-revenue has accrued, a writ of demand or summons to appear may issue, calling on the defaulter to pay the amount within a time therein stated.

Writ of demand.

116. At any time after an arrear of land-revenue becomes due, such officer as the Chief Commissioner from time to time empowers in this behalf, may arrest the defaulter and detain him in custody for fifteen days, unless the arrear, together with the costs of arrest, is sooner paid.

Arrest and detention of defaulter.

117. If the arrear be not paid within fifteen days, and no good reason for the non-payment is shown, the Deputy Commissioner may issue an order to the jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding six months from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order:

Imprisonment in civil jail.

Provided that no person exempted under the law for the time being in force from personal attendance in the Civil Courts, no taluqdâr and no female, shall be subject to arrest or imprisonment under this and the preceding section.

118. The Deputy Commissioner may, whether the defaulter has been arrested and imprisoned or not, order the attachment and sale of so much of his moveable property as will, as nearly as may be, defray the arrear.

Attachment and sale of moveables.

Nothing herein contained shall authorize the attachment and sale of articles set aside exclusively for the use of religious endowments: or, in the case of an agriculturist, of instruments of husbandry and of cattle *bonâ fide* kept for the cultivation of his land, or in the case of an artisan, of his tools, nor of any other articles exempted by the law for the time being in force from sale in execution of decrees of Civil Courts.

119. Every attachment and sale ordered under the preceding section shall be conducted according to the law in force for the time being, for the attachment and sale of moveable property under the decree of a Civil Court.

Conduct of sale.

120. When an arrear of land-revenue has become due in respect of a share, pattî or mahâl, the Deputy Commissioner may in addition to, or instead of, the processes hereinbefore specified, cause such share, pattî or mahâl to be attached and taken under the direct management of any agent whom he appoints for that purpose.

Property may be attached and taken under direct management.

The agent so appointed shall stand, for the purpose of managing the property so attached, in the position of the person for whose default it was attached;

Powers and obligations of agent.

and shall be bound by all the liabilities of such person to any under-proprietors, lessees whose rent has been fixed by a Settlement Officer, or tenants with rights of occupancy;

and shall be entitled to manage such property and to receive all rents and profits accruing thereon to the exclusion of the person for whose default it was attached,

until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

121. All surplus profits of the property so attached after defraying thereout any instalment of land-revenue that may become due during such management, and the cost of such attachment and direct management, shall be applied to discharging the arrear of revenue on account of which it was ordered.

Application of surplus profits.

And no such management shall continue after such arrear has been discharged as aforesaid, and any surplus remaining after payment of the charges mentioned in the first clause of this section shall be handed over to the proprietor.

Termination of management.

122. If an arrear of land-revenue has become due in respect of the share of any member of a village community, such community, or any member thereof, may tender payment of such arrear, or may offer to pay such arrear by instalments.

Transfer of share of defaulter to solvent co-sharers.

If such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to the community or member making the tender or offer on such terms as the Deputy Commissioner thinks fit, and either for a term of years, or until such arrear is paid.

In case of conflicting tenders or offers under this section, the co-sharer who, in case the share were sold, would have a right of pre-emption under section 9 of the Oudh Laws Act, shall be preferred.

123. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years from the date of the transfer, the community or member to whom the share has been so transferred, may apply in writing to the Deputy Commissioner

When transfer of share is to become absolute.

to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute.

The Deputy Commissioner shall publish such notification accordingly, and if the arrear is not repaid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute.

124. The procedure prescribed in the two preceding sections shall not affect the joint liability of the co-sharers of the mahál.

Procedure not to affect joint liability of co-sharers.

125. When any arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner is of opinion that the processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, any such process, report, through the Commissioner of the division, the matter to the Chief Commissioner, and the Chief Commissioner may thereupon order the existing settlement of such pattí or mahál to be annulled.

When settlement may be annulled.

The provisions of this section shall not be put in force for the recovery of any arrear of land-revenue which may have accrued on land,

Exception of certain arrears.

(*a*) while attached under section 120, or

(*b*) while in charge of the Court of Wards.

126. When the settlement of any pattí or mahál has been annulled under the last preceding section, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, either manage the land by himself or an agent, or let it in farm to any person willing to accept the same, for such term and on such conditions as may be approved by the Chief Commissioner:

When settlement has been annulled, the Deputy Commissioner may manage the land himself, or by agent, or let it in farm.

Provided that the term for which a pattí or mahál may be so managed or let be not longer than fifteen years from the first day of July next after the date of such annulment.

And no interest in or right to such pattí or mahál, or any part thereof, created or assigned by any person who, immediately before the annulment of the settlement, was in possession of the whole or any part of the land comprised therein, or by any person through whom he claims, shall, during the continuance of such term, be binding on the Deputy Commissioner or his agent or lessee.

Suspension of contracts.

127. When the Deputy Commissioner attaches any land under section 120, or when the settlement of any land has been annulled under section 125, he shall make public proclamation thereof on the mahál.

Proclamation of attachment or annulment of settlement.

And he may realize all arrears of rent becoming due in respect of such land by under-proprietors or by lessees whose rent has been fixed by a Settlement Officer, as if they were arrears of land-revenue.

128. No payment made after such proclamation on account of rent or other profit of the land so attached, or of which the settlement has been so annulled to any person other than the Deputy Commissioner or his agent or lessee, shall be credited to the person making such payment, or relieve him from liability to payment to the Deputy Commissioner, his agent or lessee.

Payments thereafter to defaulter not to discharge payer.

129. No payment made to the defaulter in anticipation of the usual period for the payment of rents, shall, without the special sanction of the Deputy Commissioner, be credited to the person making the same in account with the Deputy Commissioner, or with his agent or lessee.

Payments to defaulter in anticipation of due date.

130. When any land has been let in farm under section 126 any balance due by the lessee as such may be recovered from him or his surety (if any) as if it were an arrear of revenue.

Recovery of balance due by farmer.

131. Whenever the settlement of any portion of a mahál is annulled under section 125, the joint responsibility of the co-sharers of the mahál for the revenue of such portion subsequently becoming due, shall be in abeyance until a new settlement of such portion is made under section 132.

Suspension of responsibility of co-sharers for revenue of portion of mahál as to which settlement is annulled.

132. After the expiration of the period for which any land has been managed or let in farm under section 126, the Deputy Commissioner shall offer to the person entitled to be settled with under section 26 a new settlement, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the district; and if such person refuse such offer, the Deputy Commissioner may (with the previous sanction of the Chief Commissioner) either manage the land by himself or an agent, or let the same in farm, under the provisions of sections 30 to 38, both inclusive.

Offer of settlement to proprietor on expiry of period for which land is managed or farmed.

133. When an arrear of land-revenue has become due in respect of any pattí or mahál, and the Deputy Commissioner of the district is of opinion that the other processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of all or any such other processes, and subject to the provisions next hereinafter contained, and with the previous sanction of the Chief Commissioner, sell by auction the pattí or mahál in respect of which such arrear is due:

Power to sell land to recover revenue-arrears.

Provided that no pattí or mahál shall be sold—

(*a*) for any arrears of land-revenue which may have become due in respect thereof while it was under the management of the Court of Wards, or held under the provisions of the Oudh Taluqdárs' Relief Act, or when the proprietor or under-proprietor thereof was, at the time the arrear accrued, a female deemed by the Chief Commissioner incompetent to manage her estate, a minor, an idiot, or a lunatic;

(*b*) for any arrears of land-revenue which may have become due while it was under attachment under section 120; or

(*c*) for any arrears of land-revenue which may have become due while it was under direct management by the Deputy Commissioner, or in farm by

any other person under sections 32, 35, 126, or 132.

134. Land sold under the last preceding section shall be sold free of all incumbrances,

Land to be sold free of incumbrances.

and all grants and contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser at the auction-sale.

Grants and contracts void against purchaser.

Nothing in the former part of this section applies to leases of lands at fair rents, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship or burying grounds.

Exceptions.

135. The Chief Commissioner may, notwithstanding anything contained in section 134, at any time before a sale of land for arrears of revenue has been actually made, direct it to be made subject to such of the interests in or rights to such land created by the proprietor in possession thereof, or any person through whom he claims, as the Chief Commissioner thinks fit.

Power to direct sale to be made subject to incumbrances.

When the proceeds of a sale so made are not equal to the arrears due at the time of sale, the Chief Commissioner may, at any time before the Commissioner of the Division has confirmed the sale, direct it to be cancelled and a new sale of the land to be made under section 134.

Power to cancel restricted sale and re-sell under section 134.

136. If the arrear cannot be recovered by any of the above processes, and the defaulter is in possession of any other immoveable property, the Deputy Commissioner may proceed against such other property, as if it were the land on account of which the revenue is due under the provisions of this Act:

Power to proceed against defaulter's other immoveable property.

Provided that no interest save those of the defaulter alone, shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by such proceeding.

137. On the receipt of the sanction of the Chief Commissioner to the sale of any land, the Deputy Commissioner of the district shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale,

Procedure in effecting sale.

and (when the land to be sold is a mahál or part of a mahál paying revenue to Government) the revenue assessed upon it, together with any other particulars he may think necessary.

138. When the land is sold for arrears of revenue due in respect thereof, the proclamation shall declare that the land is to be sold free of every incumbrance except the leases mentioned in section 134, and except the interests and rights, if any, referred to in the first paragraph of section 135.

Contents of proclamation.

The particulars of such leases, interests and rights shall be given in the proclamation.

Such proclamation shall be made at the headquarters of the tahsíl in which the land is situate, and also in the village of which it is a part.

139. A written notice of the intended sale and of the time and place thereof shall be affixed in the office of the Deputy Commissioner of the district, and where the Assistant Commissioner in charge of the sub-division in which the land is situate has a separate office, then also in such office, and a copy of such notice shall be served on the defaulter.

Notification of sale.

140. Every sale under this chapter shall be made either by the Deputy Commissioner of the district in person or by an Assistant Commissioner specially appointed by him in this behalf.

Sale by whom to be made.

No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the said notice thereof has been affixed in the office of the Deputy Commissioner of the district, and proclamation of the sale has been made in the village in which the land is situate.

Time when sale may be made.

The Deputy Commissioner of the district may, from time to time, postpone the sale, reporting such postponement to the Commissioner of the division.

141. If the defaulter pay the arrear of revenue in respect of which the land is to be sold at any time before the day fixed for the sale, to the person appointed by Government under section 110, to receive payment of the revenue assessed on such land, or to the Deputy Commissioner of the district, or the Assistant Commmissioner in charge of the sub-division of the district, the sale shall be stayed.

When sale may be stayed.

142. The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of such deposit the land shall forthwith be again put up and sold.

Deposit by purchaser.

Re-sale in default of deposit.

143. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the land took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then on the first office day after such fifteenth day;

Purchase-money when to be paid.

and in default of payment within such period, the deposit, after defraying thereout 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 be subsequently sold.

Resale in case of default.

144. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in the Code of Civil Procedure for the execution of a decree for money.

Liability of purchaser for loss by re-sale.

145. No re-sale under section 143 in default of payment of the purchase-money shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

Notification before re-sale.

146. At any time within thirty days from the date of the sale, application in writing may be made to the Commissioner of the Division to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it.

Application to set aside sale.

147. No sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of.

When sale may be set aside.

148. After the expiration of the said thirty days, if no such application as is mentioned in section 146, has been made, or if such application has been made and rejected, the Commissioner of the Division shall make an order confirming the sale;

Order confirming or setting aside.

and if such application be made and allowed the Commissioner shall make an order setting aside the sale.

Every order made under this section shall be final.

149. If no such application be made within the time allowed by section 146, all claims founded on the irregularity or mistake complained of shall, as against the Government, be barred.

Bar of claims against Government.

Nothing herein contained shall preclude the institution of a suit in a Civil Court for the purpose of setting aside a sale on the ground of fraud.

150. Whenever the sale of any land is set aside, the purchaser shall be entitled to receive back his purchase-money, with or without interest, at such rate not exceeding six per cent. per annum, as the Commissioner of the Division thinks fit.

Refund of purchase-money when sale set aside.

151. After a sale of land in respect of which an arrear of revenue is due has been confirmed in manner aforesaid, the Deputy Commissioner of the District shall, unless the purchase has been made subject to a right of some other person to possession, put the person declared to be the purchaser into possession of the land, and shall grant him a certificate, to the effect that he has purchased the land to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such land, but need not be stamped or registered as a conveyance.

On confirmation of sale, purchaser to be put in possession.

If the land has been sold on account of an arrear of revenue due in respect thereof, the certificate shall also either state that the purchaser has purchased the land to which the certificate refers free of every incumbrance other than the leases mentioned in section 134, or shall specify the incumbrances subject to which the land has been sold.

152. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Bar of suit against certified purchaser.

153. When a sale of land has been confirmed under section 148, the proceeds of the sale shall be applied in the first place to defraying the expenses of sale and to the payment of any arrears due in respect of such land at the date of the confirmation of such sale and recoverable as an arrear of land-revenue,

Application of proceeds of sale.

and the surplus (if any) shall be paid to the person whose land has been sold;

or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their recorded interests, at the discretion of the Deputy Commissioner of the District.

154. Such surplus shall not (except under an order of a Civil Court) be payable to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained in the Government treasury.

Surplus not to be paid to creditors, nor retained by Government except under order of Court.

155. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the confirmation of the sale.

Liability of purchaser for revenue.

156. Where any land sold under section 133 is a pattí of a mahál, any recorded co-sharer, not being himself in arrear with regard to the revenue due in respect of such land, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Pre-emption by co-sharers when land sold is a pattí of a mahál.

Provided that such claim be made on the day of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfil all the other conditions of the sale.

157. Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings,

Payment under protest and suit for recovery.

and upon such payment the proceedings shall be stayed,

and (subject to the pecuniary limitations prescribed by law) the person against whom such proceedings were taken may sue the Government for the amount so paid in any Civil Court situate in the district where such proceedings were taken;

and in such suit, the plaintiff may, notwithstanding section 114, give evidence of the amount which he alleges to be due from him.

158. Any proprietor or under-proprietor of a mahál or portion of a mahál, that is attached, transferred, held under direct management, farmed or sold under the provisions of this Act, who may, at the date of the order of such attachment, transfer, direct management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner may determine, and the rent to be

Proprietor of mahál when to be deemed a tenant with right of occupancy.

paid by him for such land shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

159. Whenever a mahál or pattí is held in sub-settlement, or under a heritable, nontransferable lease, the rent payable under which has been fixed by the Settlement Officer, and the rent of such mahál or pattí falls into arrear, the proprietor may, instead of suing the defaulter under Act No. XIX of 1868, apply in writing to the Deputy Commissioner requesting him to realize such arrear.

Assistance to recover rent of mahál held in sub-settlement.

The Deputy Commissioner shall, on receipt of such application, satisfy himself as to the existence of such arrear, and shall then, subject to such rules as may from time to time be made in this behalf by the Chief Commissioner, proceed to recover such arrear as if it was an arrear of revenue.

160. If the term for which any settlement has been made expires before a new settlement is made, all persons with whom a settlement has been made, who continue after the expiration of such term to occupy the land comprised in the expired settlement shall, until a new settlement is made, hold the said land upon the conditions of the expired settlement.

Tenure of land under expired settlement until new settlement is made.

161. The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of land-revenue and sums of money recoverable as arrears of land-revenue and due when this Act comes into force.

Provisions applied to arrears due at commencement of Act.

CHAPTER VIII.

COURTS OF WARDS.

162. Deputy Commissioners shall, subject to the control of the Commissioner of the Division and of the Chief Commissioner, have the power of a Court of Wards within their respective districts for the superintendence of the persons and property of all persons who may become entitled as proprietors or under-proprietors, or lessees whose rent has been fixed by a Settlement Officer, to any beneficial interest in a mahál or portion of a mahál assessed to the payment of land-revenue or held free of revenue, and who are either disqualified for the management of their own estates or are committed by a Civil Court to the care of the Deputy Commissioner:

Deputy Commissioners to be Courts of Wards.

Provided that the Court of Wards shall not take charge of or administer any beneficial interest in an estate, in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Bar of jurisdiction in certain cases.

163. Persons shall be held to be disqualified to manage their own estates when they are

Persons when disqualified to manage their estates.

(*a*) females deemed by the Chief Commissioner incompetent to manage their estates,

(*b*) minors,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons who may in the opinion of the Chief Commissioner be otherwise rendered incapable by physical defects or infirmities from managing their estates,

(*f*) persons convicted of a non-bailable offence and disqualified in the opinion of the Chief Commissioner by vice or bad character from managing their estates,

(*g*) persons declared by the Chief Commissioner on their own application to be disqualified from managing their estates.

164. The Deputy Commissioner may make an inquiry into the disqualification of any person, who, he has reason to believe, disqualified within the meaning of section 163, clauses (*b*), (*c*) or (*d*), and into the circumstances and property of any such person, and may make an order declaring him to be subject to the jurisdiction of the Court of Wards.

Inquiry into minority, lunacy, idiocy, &c.

165. The Court of Wards may assume or refrain from assuming the superintendence of the person or property of any disqualified person and may at any time release any person or property from its superintendence: Provided that such person or property has not been placed under the Court of Wards by any competent authority whose order is necessary to his or its release.

Jurisdiction of Court of Wards.

166. If in any case not specially provided for by this or any other law for the time being in force, the right of the Court of Wards to assume or retain the superintendence of the estate of a disqualified person is disputed by such person, the case shall be reported to the Chief Commissioner whose orders thereon shall be final.

Report to Chief Commissioner when right of Court of Wards is disputed by persons other than those specially provided for.

167. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto.

Extent of jurisdiction.

168. The Court of Wards may appoint managers of the property of disqualified proprietors, and if such proprietors be minors, idiots or lunatics, may appoint guardians for the care of their persons, and may remove and control such managers and guardians.

Appointment, removal and control of guardians.

169. Proprietors may appoint guardians for their heirs, if disqualified, by will executed and attested in manner required in case of Taluqdárs by Act No. I of 1869, and in case of other proprietors by the Indian Succession Act, 1865; but the Court of Wards shall be competent to remove such guardian for any sufficient reason.

Power of proprietors to appoint guardians for disqualified heirs.

170. The Court of Wards may direct where all male minors under its jurisdiction shall reside for the purpose of education or otherwise.

Powers of Courts of Wards as to male minors within its jurisdiction.

171. The manager appointed by the Court of Wards shall have power to collect the rents of the land entrusted to him, as well as all other money due to

Powers of manager.

the disqualified proprietor, and to grant receipts therefor;

and he may, subject to the control of the Court, grant or renew such leases and farms, not being for a longer period than five years, as may be necessary for the good management of the property.

172. The manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the proprietor's interest as if the property were his own.

Duties of manager.

173. The Court of Wards shall have power to give such leases or farms of the whole or parts of the immoveable property under its charge, and to mortgage or sell any part of such property, and to do all such other acts, as it may judge to be most for the benefit of the property and the advantage of the disqualified proprietors.

Power of Court of Wards as to land under its charge.

174. Persons whose property is under the superintendence of the Court of Wards shall not be competent to create without the sanction of the Court any charge upon or interest in such property or any part thereof.

Disabilities of persons subject to Court of Wards.

175. No such property shall be liable to be taken in execution of a decree made in respect of any contract entered into any his property is under such superintendence.

Their property exempt from being taken in execution of certain decrees.

176. All disqualified proprietors whose property is in charge of the Court of Wards shall sue and be sued by and in the name of their guardians, where guardians have been appointed; otherwise by and in the name of the Court of Wards.

Suits by and against disqualified proprietors in charge of Court of Wards.

Provided that no such suit shall be maintained or defended by any guardian without the sanction of the Court of Wards.

177. If no such guardian has been appointed, the disqualified proprietors shall sue and be sued by and in the name of the Court of Wards.

Suits by such proprietors when no guardian appointed.

178. Every manager appointed by the Court of Wards shall—

Rules relating to managers.

(*a*) give such security as the Court of Wards thinks fit, duly to account for what he shall receive in respect of the rents and profits of the property for which he is appointed;

(*b*) pass his accounts at such periods and in such form as the Court of Wards directs;

(*c*) pay the balance due from him thereon;

(*d*) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by such Court;

(*e*) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties;

(*f*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

CHAPTER IX.

POWERS OF OFFICERS.

A.—Powers of Assistant Commissioners.

179. An Assistant Commissioner in charge of a sub-division shall as such have the following powers:—

Powers of Assistant Commissioners of the first class.

(*a*) to refer cases for inquiry or decision to his subordinates;

(*b*) to withdraw cases from his subordinates and to deal with them himself, or to refer them for disposal to any other subordinate officer competent to deal with them;

(*c*) to order changes in the proprietary register;

(*d*) to levy fees for mutations;

(*e*) to enquire into cases of reported transfers;

(*f*) to levy fines, under section 65;

(*g*) to declare the person best entitled to property and put him in possession, under section 66;

(*h*) to report on revenue-free holdings, and to assess revenue on resumed grants;

(*i*) to assess alluvial lands;

(*j*) to receive applications for and make partitions under chapter V, of this Act, subject to the confirmation of the Deputy Commissioner of the District.

(*k*) to impose fines for injuries to boundary-marks, and in certain cases apportion the charges of re-erecting and repairing boundary-marks;

(*l*) to call on owners to erect or repair boundaries, and, in default, to erect and repair and charge the cost to owners, and to decide disputes regarding boundaries;

(*m*) to attach and sell moveable property of defaulters, under section 118;

(*n*) to fix under section 158 the area of the land to be held as a tenant with right of occupancy and the rent to be paid for it by proprietors of mahâls which have been attached, transferred, held under direct management, farmed or sold, under the provisions of this Act, for land in their cultivating occupancy;

180. Assistant Commissioners of the first class, not in charge of sub-divisions of districts, shall exercise all or any of the powers conferred on Assistant Commissioners of the first class in charge of sub-divisions, in such cases or class of cases as the Deputy Commissioner of the District may, from time to time, refer to them for disposal.

Powers of Assistant Commissioners of first class not in charge of sub-divisions.

181. All Assistant Commissioners of the second class shall have power to investigate and report on such cases as the Deputy Commissioner of the District or Assistant Commissioner in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

Powers of Assistant Commissioners of second class.

B.—Powers of Settlement Officers.

182. Officers in charge of a settlement may exercise all the powers conferred by or under this Act on Settlement Officers, and by section ten on the Deputy Commissioner of the District, but none but an officer in charge of a settlement or an Assistant Settlement Officer specially empowered by the Chief Commissioner shall have power—

Powers of officers in charge of a settlement.

(*a*) to frame proposals for assessment;

(*b*) to distribute the assessment;

(*c*) to re-distribute land or revenue under section 31;

(*d*) to determine the rent payable under section 40 by under-proprietors or lessees;

(*e*) to exclude proprietors from settlement for refusal to engage;

(*f*) to adjust the rent of excluded proprietors;

(*g*) to determine under section 56 the rent payable in respect of resumed rent-free tenures;

(*h*) to resume and assess revenue-free land.

183. All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers, under such restrictions as the officer in charge of a settlement may from time to time impose.

Powers of Assistant Settlement Officers.

184. The Chief Commissioner may with the previous section of the Governor General in Council invest any officer in charge of a settlement with all or any of the powers of a Deputy Commissioner under this Act, and any Assistant Settlement Officer with all or any of the powers conferrible on an Assistant Commissioner under this Act within such limits, and with such restrictions, and for such period as he thinks fit.

Investing of Settlement Officers with powers of Deputy Commissioner and Assistant Commissioner.

CHAPTER X.

APPEALS.

185. Appeals shall lie under this Act as follows:—

Officers to whom appeals lie.

(*a*) to the Chief Commissioner from any order passed by a Commissioner except such orders as are made on appeal from orders passed by Deputy Commissioners in the exercise of their appellate jurisdiction;

(*b*) to the Commissioner from orders, original or appellate, passed by Deputy Commissioners or officers in charge of a settlement in any proceeding held under the provisions of this Act;

(*c*) to the Deputy Commissioner from orders passed by any Assistant Commissioner;

(*d*) to the officer in charge of a settlement from orders passed by an Assistant Settlement Officer.

186. No appeal under section 185, clauses (*c*) and (*d*), shall be brought after the expiration of thirty days from the date of the order complained of.

Limitation of appeals.

No appeal under the same section, clause (*b*), shall be brought after the expiration of six weeks from the date of the order complained of, unless otherwise specially provided.

No appeal under the same section, clause (*a*), shall be brought after the expiration of two months from the date of the order complained of.

187. In computing the period prescribed for an appeal under this chapter, the day on which the order complained of was passed, and the time requisite for obtaining a copy of such order, shall be excluded.

Time to be excluded.

188. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

Admission of appeal after period of limitation.

No appeal shall lie against an order under this section admitting an appeal.

189. The officer to whom the appeal lies may either admit or summarily reject the appeal. If he admit the appeal, he may reverse, modify or confirm the order appealed against, or he may direct such further investigation to be made or such additional evidence to be taken as he may think necessary, or he may himself take such additional evidence.

Procedure on admitting appeal.

190. In every case in which an appeal is admitted, the execution of the order appealed may, pending the result of the appeal, be suspended.

Suspension of order appealed against.

191. The Chief Commissioner and every Commissioner shall have power to call for the file of any proceeding held by any officer subordinate to him, and to pass such orders thereon as he thinks fit.

Power to call for files of subordinate officers.

CHAPTER XI.

REFERENCE TO ARBITRATION.

192. The Chief Commissioner, a Commissioner of a Division, a Deputy Commissioner, an Assistant Commissioner of the first class, an officer in charge of a settlement, or an Assistant Settlement Officer may, with the consent of the parties, by order, refer any dispute before him to arbitration; and any officer acting under the provisions of sections 103 to 108, both inclusive, may, with the consent of the parties, refer to arbitration any dispute arising before him respecting the matters mentioned in the same sections.

Power to refer disputes to arbitration.

193. In referring any such dispute to arbitration, the officer making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators, and such period as he may think reasonable for the delivery of the award;

What to be specified in order of reference.

and he may from time to time extend such period.

194. The parties to the case may each nominate either one or two arbitrators, provided that each party shall nominate the same number;

Appointment of arbitrators.

and a third or fifth arbitrator (as the case may be) shall be appointed by the parties, or, in the event of their being unable to agree, by the officer making the reference.

Power to excuse arbitrator from serving, and to call for nomination of substitute.

195. Every officer making a reference under this chapter may, on good cause shown, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused.

Nomination of new arbitrator in place of one dying or failing to act.

196. If an arbitrator die, desire to be discharged, or refuse or become incapable to act, the party who nominated him shall nominate another person in his place.

Nomination by officer when parties fail.

197. If in any of the cases provided for by section 195 or section 196 any party fail for a week to nominate in manner aforesaid, the officer making the reference shall appoint some person to act as arbitrator.

Award.

The arbitrators shall determine and award concerning the matters referred to them for arbitration; and the parties disputing, and all persons claiming through them respectively, shall abide by and perform the award of the arbitrators.

Summoning parties to give evidence.

198. If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they shall apply to the officer making the reference, who shall summon such parties or persons;

Obligation of persons summoned.

and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth as to the subject-matter of the reference, and to produce such documents and other things as may be required before the arbitrators.

Preparation and submission of award.

199. The award shall be made in writing under the hands of the arbitrators, and shall be submitted by them to the officer making the reference, who shall cause notice to be served on the parties to attend and hear the award.

In what cases award or subject of arbitration may be remitted to arbitrators.

200. The officer making the reference may remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators,

(*a*) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if an objection to the legality of the award is apparent upon the face of the award.

Grounds on which award may be set aside.

201. No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators.

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Application to set aside.

202. If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid,

Decision according to award.

and if no application has been made to set aside the award,

or if he has refused such application,

he shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration, and direct by, and to whom, and in what manner, the same shall be paid.

Bar to appeal any suit in Civil Court.

203. Such decision shall not be open to appeal, and shall be at once carried out;

and no Civil Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

CHAPTER XII.

MISCELLANEOUS.

Place for holding Court.

204. Subject to the orders of the Chief Commissioner,

(*a*) a Commissioner may hold his Court at any place within his division that he thinks fit:

(*b*) a Deputy Commissioner, an Assistant Commissioner (whether in charge or not of a sub-division of a district), or an officer in charge of a settlement or Assistant Settlement Officer may hold his Court at any place within the limit of the district to which he is appointed; and

(*c*) a Tahsíldár may hold his Court at any place within the limits of his tahsíl.

Power to summon persons to give evidence and produce documents.

205. The Chief Commissioner and any officer mentioned in the last preceding section shall have power to summon any person whose attendance he considers necessary for the purpose of any investigation, suit or other business before him.

All persons so summoned shall be bound to attend either in person or by authorized agent as such officer may direct,

and to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

Conduct of proceedings.

206. All proceedings held under the provisions of this Act shall be conducted according to the rules for the time being prescribed under section 208.

Matters excepted from cognizance of Civil Courts.

207. No Civil Court shall exercise jurisdiction over any of the following matters:—

(*a*) the claim of any person to be settled with, or

the validity of any engagement with Government for the payment of revenue, or

the amount of revenue, cess or rate to be assessed on any mahál, or portion of a mahál under this or any other Act for the time being in force: or

the rent to be paid to a proprietor by an under-proprietor or a lessee whose rent has been fixed by the Settlement Officer.

(*b*) any claims connected with or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer:

(*c*) the formation of the settlement record,

the preparation, signing, or attestation of any of the documents contained therein, or

the notification of settlement:

(*d*) the distribution on partition of the land or allotment of the revenue of a mahál or of the rent of an under-proprietary tenure, or of rent payable by lessees whose rent has been fixed by a Settlement Officer.

(*e*) the determination of the rent to be paid by any person under section 87:

(*f*) claims connected with, or arising out of, the collection of revenue or any process enforced on account of an arrear of revenue, or on account of any sum which is by this or any other Act realizable as revenue other than claims under section 157:

(*g*) claims to set aside a sale for arrear of revenue other than claims under section 149.

In all the above cases, jurisdiction shall rest with the revenue officers only.

Power to make rules for purposes of Act.

208. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, make and issue rules consistent with this Act, and relating to the following matters:—

(*a*) the appointment, duties, remuneration, punishment and dismissal of—

(1) tahsíldárs.

(2) lambardárs or representatives of village communities,

(3) kánúngós or superintendents of revenue records,

(4) patwárís or village accountants;

(*b*) for regulating the assessment of land gained by alluvion or the reduction of the assessment of a mahál in consequence of diluvion;

(*c*) the procedure to be followed by any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(*d*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under the preceding sections of this Act, and not expressly provided for as regards appeal shall be appealable;

(*e*) the person by whom, and the time, and manner at or in which, anything for the doing of which provision is hereinbefore made in this Act, shall be done;

(*f*) the form and contents of reports to be furnished by officers required or empowered to take action in any matter, and the period within which such reports shall be furnished;

(*g*) the form and contents of the registers and lists kept under this Act; and

(*h*) the cases in which alone taluqdárí mahals and mahals whether under-proprietary or held by lessees whose rents have been fixed by the Settlement Officer shall be liable to partition under this Act;

(*i*) the costs of partitions under this Act and the persons by whom they are to be paid, and the mode of enforcing such payment against such persons or their shares in the property of which partition has been made;

(*j*) the issue under section 115, of writs of demand or summons to appear, and the costs recoverable from the defaulter, and the officer by whom such writs and summonses shall be issued;

(*k*) and generally to carry out the provisions of this Act.

Penalty for neglecting to appoint patwárís.

209. Where, by any rule framed under the provisions of clause (*a*) of the preceding section, the appointment of patwárís is directed to be made by the landowners of a village, or the landowners are made primarily responsible for enforcing the due submission of such returns as may be prescribed to be kept by patwárís, the neglect or refusal of such landowners to make such appointment or to enforce the submission of such returns shall be punishable with such fine not exceeding fifty rupees, as the Chief Commissioner directs.

Recovery of fines and costs.

210. All fees, fines, costs and other moneys ordered to be paid under this Act, shall be recoverable as if they were an arrear of land-revenue.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th July 1876:—

We, the undersigned Members of the Select Committee to which the Bill to declare and amend the laws to be administered in Oudh was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Secretary to Chief Commissioner, Oudh, No. 554, dated 2nd February 1871, and enclosures.
" Government of Bengal, No. 3304, dated 14th July 1871, and enclosure.
Endorsement by Department of Revenue, Agriculture and Commerce, No. 900, dated 19th September 1872, forwarding—
Letter from Personal Assistant to Chief Commissioner, Oudh, No. 2779, dated 5th August 1872, and enclosures.
From Officiating Personal Assistant to Chief Commissioner, Oudh, No. 133, dated 14th January 1873, and enclosures.
" Officiating Secretary to Chief Commissioner, Oudh, No. 4478, dated 19th September 1873, and enclosures.
" Military Department, No. 437J, dated 8th January 1874, and enclosures.
" Secretary to Chief Commissioner, Oudh, No. 1032, dated 4th March 1875, and enclosures.
" Secretary to Chief Commissioner, Oudh, No. 3925, dated 21st August 1875, and enclosures.
" Secretary to Chief Commissioner, Oudh, No. 2707, dated 9th January 1876, and enclosures.
" Secretary to Financial Commissioner, Panjáb, No. 767, dated 18th July 1873, and enclosures.
" Officiating Government Advocate, Panjáb, No. 1322, dated 16th July 1874.
" Officiating Registrar, Chief Court, Panjáb, No. 1215, dated 15th May 1875, and enclosures.

2. We have omitted the chapter relating to minority. So far as relates to Europeans the matter is sufficiently provided for by Act No. XIII of 1874. As to Natives, there seemed some danger that the chapter in question might have interfered undesirably with their customs as to guardianship, minority, and bastardy; and as there is no evidence before us that those customs are either unjust or inexpedient, we thought it best not to touch them in the present measure. Exactly the same course was followed by the legislature when it passed the Panjáb Laws Act, and no inconvenience has been found to result.

3. We have transferred the chapter treating of the Court of Wards to the Oudh Land-Revenue Bill, with certain changes described in the report on that Bill.

4. For reasons similar to those mentioned in paragraph 2 of this report, we have omitted the chapter relating to betrothal. Here, again, we have followed the precedent of the Panjáb Laws Act.

5. We have redrawn the chapter of pre-emption, extending it to foreclosures of mortgages as well as to sales, as is done by the Panjáb Laws Act.

6. The substance of the sections on partitions has been inserted in the Oudh Land-Revenue Bill. We have therefore struck them out of the Laws Bill.

7. We have omitted the sections (46 and 47) as to the bar of certain suits for redemption. They were taken from the Oudh Courts Act: some difference of opinion exists about them; and they should not be inserted in a Bill of which the primary object is to clear up doubts as to what the law really is in Oudh. The Oudh Courts Act remains untouched in this respect.

8. We have also omitted the sections relating to insolvency. This matter will, so far as regards persons arrested or imprisoned in execution of money decrees, be dealt with by the revised Code of Civil Procedure, which will apply to Oudh as to other parts of British India; and, in any case, we think it inexpedient to give Oudh a special law on the subject.

9. We have also omitted the sections relating to intestacy. The procedure which they prescribe can, for the most part, be enforced by executive rules for the disposal of unclaimed property made under the Police Act, V of 1861. Moreover, so far as regards Europeans and East Indians, the necessary rules are already contained in the Administrator General's Act, II of 1874.

10. The retention of the system of trial by jury in civil cases in Lucknow alone, of all places in India, is obviously inexpedient. We have therefore struck out section 61.

11. We have struck out the clause of the Bill requiring Judges of Civil Courts to forward to the Deputy Commissioner certified copies of decrees affecting land.

12. As regards sales of land in execution of decrees, we have altered section 65 of the Bill so as to render unsaleable ancestral property in land without the permission of the Judicial Commissioner, and acquired property in land without the permission of the Deputy Commissioner. This maintains the modification of Act VIII of 1859, section 205, subject to which the Code of Civil Procedure was extended to Oudh in August 1861. We have also declared that in the clause under notice (section 21 of the amended Bill) the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59. This agrees with the Oudh Rent Act, section 109.

13. We have provided (section 22) for the appointment of a person to manage immoveable property under attachment.

14. We have amended (sections 23 and 24) the Oudh Rent Act sections 109 and 118.

15. We have omitted the chapters relating respectively to Escheats and Hidden Treasure. Rules as to the former subject can be made by the Executive and require no legislation. The latter subject will be dealt with by another Bill about to be introduced into the Council of the Governor General, which will apply to the whole of British India.

16. We have also omitted the chapter relating to Cantonments and Military Bázárs. So much doubt exists in the Military Department of the Government of India as to what rules should be made on this subject, that the Committee have thought it best to omit the chapter in question, and rely for the present on the rules contained in Bengal Regulation XX of 1810.

17. We have inserted, at the desire of the Chief Commissioner, a chapter (copied from Act XVI of 1873) dealing with Village and Road Police.

18. In the section relating to the creation of new districts, we have empowered the Chief Commissioner to subdivide districts and to alter the limits of subdivisions.

19. We have repealed sections 10 to 15 of the old Gambling Act, which were extended to Oudh by an executive order. We have also repealed Act XIX of 1863, as its provisions have been inserted in the Oudh Land-Revenue Bill. We have omitted from the schedule of repeals Act III of 1869, as to Rural Police, and sections 29 and 30 of the Oudh Civil Courts Act.

20. From the section (91) corresponding with sections 38 and 39 of the present draft, we have omitted the clause providing for the periodical republication of subsidiary rules.

21. From the second schedule we have omitted Regulation XXIII of 1803, as to fees to defray the expenses of Revenue-offices, and Regulation IV of 1821, as to the powers and duties of Collectors; and Acts I of 1847, as to boundary marks, XXVI of 1854, as to education of Wards, and XXXI of 1858, as to the settlement of alluvion. We have inserted Regulation XX of 1810, as to Military Bázárs, Regulation V of 1817, as to Hidden Treasure, and Regulation XI of 1822, section 38, as to the non-liability of Government for the errors of Courts of Justice.

22. The publication directed by the Rules for the conduct of legislative business has taken place. But the Bill has been so much altered that we think it should be republished, with this report, in the *Gazette of India* and the local Gazette, and that its further consideration should be postponed for two months.

A. HOBHOUSE.
R. H. DAVIES.
E. C. BAYLEY.
A. J. ARBUTHNOT.
JOHN INGLIS.
T. C. HOPE.
F. R. COCKERELL.

SIMLA;
The 22nd July 1876.

No. II.

THE OUDH LAWS BILL, 1876.

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SECOND SCHEDULE.

A Bill to declare and amend the laws to be administered in Oudh.

Whereas it is expedient to declare and amend the laws to be administered in Oudh; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Oudh Laws Act, 1876." Short title.

It extends only to the territories for the time being under the administration of the Chief Commissioner of Oudh; Local extent.

And it shall come into force on the passing thereof. Commencement.

2. On and from that day, the Regulations, Acts, Rules and Orders mentioned in the first Schedule hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule. Repeal of enactments.

PART II.

GENERAL LAWS TO BE ADMINISTERED IN OUDH.

3. The law to be administered by the Courts of Oudh shall be as follows:— Statutory law to be administered in Oudh.

(a) the laws for the time being in force regulating the assessment and collection of land-revenue;

(b) in questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions or any religious usage or institution, the rule of decision shall be—

(1) any custom applicable to the parties concerned which is not contrary to justice, equity, or good conscience, and has not been by this or any other enactment altered or abolished and has not been declared to be void by any competent authority;

(2) the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been, by this or any other enactment, altered or abolished, or has been modified by any such custom as is above referred to;

(c) the rules contained in the third Part of this Act;

(d) the rules published in the local *Gazette* as provided by section sixty-two or made under any other Act for the time being in force in Oudh;

(e) the Regulations and Acts specified in the second Schedule hereto annexed, subject to the provisions of section four, and to the modifications mentioned in the third column of the same schedule;

(f) subject to the modifications hereinafter mentioned, all enactments for the time being in force and expressly, or by necessary implication, applying to British India or Oudh, or some part of Oudh;

(g) in cases not provided for by the former part of this section, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

4. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity, or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority. Validity of local custom and mercantile usages.

PART III.

CHAPTER I.

DOWER AMONG MUHAMMADANS.

5. Where the amount of dower stipulated for in any contract of dower by a Muhammadan is excessive with reference to the means of the husband, the entire sum provided in the contract shall not be awarded in any suit by decree in favour of the plaintiff, or by allowing it by way of set-off, lien or otherwise to the defendant; but the amount of the dower to be allowed by the Court shall be reasonable with reference to the means of the husband and the status of the wife. Muhammadan dower-contracts how to be enforced.

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6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons. Right of pre-emption.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed— Presumption as to its existence.

(a) to exist in all village-communities, however constituted, and whether proprietary or under-proprietary, and in the case referred to in section 40 of the Oudh Land-Revenue Act, and

(b) to extend to the village site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

8. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein, and to be exercisable therein by such persons and under such circumstances as the local custom prescribes. Its existence in towns to be proved.

9. If the property to be sold or foreclosed is a proprietary or under-proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs, in the absence of a custom to the contrary, Devolution of right when property to be sold is part of a village.

1st, to co-sharers in the tenure in order of their relationship to the vendor or mortgagor;

2ndly, if no relation of the vendor or mortgagor claim the said right to buy or redeem, to the land-owners of the pattí or other sub-division of the tenure in which the property is comprised;

3rdly, to any member of the village-community; and

4thly, if the property be an under-proprietary tenure, to the proprietor.

10. When any person proposes to sell any property, or when he forecloses a mortgage upon any property, in respect of which any persons have a right of pre-emption, he must give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be. Notice to pre-emptors.

Such notice shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village or city in which the property is situate.

11. Any person having a right of pre-emption in respect of any property proposed to be sold, shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell. Loss of right of pre-emption.

12. Such decree shall specify a day on or before which the purchase-money shall be paid. Decree to fix time for payment.

13. If the purchase-money is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall lose his right of pre-emption over the property to which it relates. Effect of non-payment of purchase-money.

14. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section ten, pay or tender to the mortgagee or his successor in title the amount specified in such notice and shall thereupon acquire a right to purchase the property. Right of pre-emptor on foreclosure.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

Suit to enforce right of pre-emption.

15. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely)—

(*a*) that no due notice was given as required by section ten;

(*b*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*c*) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If in the case of a mortgage, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

CHAPTER III.

PROCEDURE OF THE COURTS.

(a) Law of Limitation.

Rule of Limitation.

16. The Judicial Commissioner's Circular No. 104 of July 1860, shall be held to have been a notification within the meaning of section twenty-four of Act No. XIV of 1859; and such Act shall be deemed to have been in force in Oudh from the fourth day of July 1862; and all orders and decrees passed under the rules contained in the said circular, or under the said Act, shall be deemed to have been passed under a law in force for the time being.

Nothing in this section affects the provisions of sections 102, 104, 105, 106, 107 and 108 of the Oudh Rent Act (XIX of 1868) with regard to the limitation of suits under that Act.

Act XXXII of 1871, s. 28, to cease in any district where first regular settlement is sanctioned.

17. The provisions of the Oudh Civil Courts' Act, 1871, section 28, shall cease to have effect in any district from the date on which the first regular settlement is sanctioned therein.

(b) Modifications of the Code of Civil Procedure.

Extension of the term 'recognized agent.'

18. Section 17 of Act VIII of 1859 is hereby repealed, so far as the Province of Oudh is concerned, and the following section is substituted therefor:—

"The recognized agents of parties by whom such applications and appearances may be made are—

"A permanent servant, partner, relation or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers of attorney from absent parties, parties carrying on business on behalf of bankers and traders, managing agents of landlords, nearest male relations of women, and persons *ex-officio* authorized to act for Government or for any prince or chief.

"Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to, or processes served on, a recognized agent, relative to a suit, shall be effectual for all purposes, in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act, relative to the service of notices or processes on a party to a suit, shall be applicable to the service of notices and processes on such recognized agent."

Modification of sec. 111 of Act VIII of 1859.

19. Section 111 of the same Act shall be construed as if the following clause were added thereto (namely) "Nothing in this section shall be deemed to compel the Court to decide *ex parte* in the absence of the defendant; but if the defendant does not appear, the Court may, in its discretion, attach his property and issue a warrant to arrest and detain him till such day as it appoints for the hearing of the suit."

Rules for taking evidence.

20. Section 172 of Act No. VIII of 1859 is hereby repealed, so far as the Province of Oudh is concerned, and the following section is substituted therefor:—

"On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and hearing and under the personal direction and superintendence of the Judge.

"A note of the essential points of the evidence of each witness is to be taken at the time, and in the course of oral examination, by the officer who tries the case, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed, and shall form part of the record of the case.

"If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down to be interpreted to him in the language in which it was given.

"It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any party or his pleader requires it.

"If any question put to a witness be objected to by either of the parties or their pleaders, and the Court allow the same to be put, the question and the answer shall be taken down, and the objection and the name of the party making it shall be noticed in taking down the depositions, together with the decision of the Court upon the objection.

"The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

"If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record."

Execution of Decrees.

Execution sale of under-proprietary right.

21. So much of section 205 of the Code of Civil Procedure, as renders land liable to sale in execution of a decree, shall be subject to the following restriction:—

No ancestral property in land shall be sold in satisfaction of a decree without the permission of the Judicial Commissioner; no acquired property in land shall be so sold without the permission of the Deputy Commissioner.

Explanation.—In this section the words "ancestral property" include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

Appointment of a person for the care and management of immoveable property.

22. Whenever the Civil Court may think fit under section 243 of the Civil Procedure Code, or any other law in force for the time being, to provide for the management of immoveable property, the Court shall issue a precept to the Deputy Commissioner of the district wherein such property may be situated, directing him to hold the property in attachment, and to appoint a person for the due care and management of the property under adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof.

The precept of the Civil Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

Nothing in this section is to be taken as authorising a Civil Court to direct a Deputy Commissioner to attach immoveable property not in the actual possession of the judgment-debtor, or of some one on his behalf other than a creditor holding the said property as security for a debt due by the said judgment-debtor.

Section substituted for section 109, Act XIX of 1868.

23. The following section is substituted for section 109 of Act XIX of 1868 (The Oudh Rent Act):—

"The provisions of the Code of Civil Procedure, as in force in Oudh, shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act."

Section substituted for section 118, Act XIX of 1868.

24. Section 118 of the Oudh Rent Act No. XIX of 1868 is repealed, and the following section is substituted for it:—

"118. No process of execution shall be issued on a decree under this Act on any application made after the lapse of three years from the date of such decree."

No process of execution to issue on a decree after the lapse of three years from date of such decree.

Right of occupancy in judgment-debtor's sir land.

25. Any proprietor or under-proprietor of a mahál or portion of a mahál, which is attached, transferred, held under direct management, farmed or sold under the provisions of the Code of Civil Procedure, who may at the date of the order for such attachment, transfer, management, farm or sale, hold any land within such mahál or portion of a mahál in his cultivating occupancy, shall be deemed to be a tenant with a right of occupancy in respect of so much of such land as the Deputy Commissioner shall determine, and the rent to be paid by him for land so determined shall be fixed by the Deputy Commissioner under the provisions of the Oudh Rent Act.

Power to make rules for custody and sale of attached property.

26. With the sanction of the Chief Commissioner, the Judicial Commissioner may from time to time make rules consistent with this Act and with the Code of Civil Procedure,

(*a*) for the custody and sale of moveable property attached in execution of decrees;

(*b*) for the levy of a fee or commission on the sale of attached property, and the disposal of the funds accruing from such fees;

(*c*) as to the appointment and remuneration of persons by whom property is to be attached, kept in custody, and sold; and

(*d*) as to the appointment and remuneration of persons by whom local investigation under section 180, and investigations and adjustments of accounts under section 181, of the Code of Civil Procedure, are to be made.

CHAPTER IV.

OF VILLAGE AND ROAD POLICE.

Appointment of Village Police.

Right of nomination of village policemen.

27. The nomination to the post of village policeman shall be made by the zamíndár of the village, or, where there are more zamíndárs than one, by the lambardár as their representative, and where there are more lambardárs than one, the opinion of the majority (unless there is some special provision to the contrary in the village administration paper) shall prevail.

Obligation to nominate.

28. Every person authorized to nominate to the office of village policeman shall, within fifteen days after the occurrence of a vacancy in such

office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district.

Discretion to appoint or reject nominee.

29. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorized by him in that behalf.

Power to Magistrate to appoint.

30. (*a*).—In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Procedure in case of rejection of nominee.

(*b*).—If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made, but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Appointment of Road Police.

Appointment of road police.

31. Subject to the rules to be framed under section thirty-seven and for the time being in force, the Magistrate of the district may, from time to time, appoint persons to be the road police of his district.

Duties of Village and Road Police.

Duties of village and road policemen.

32. Every village policeman and every road policeman shall perform the following duties:—

(*a*).—He shall give immediate information to the officer in charge of the police-station appointed for his village or beat,

(1) of every unnatural, suspicious, or sudden death occurring in the village of which he is chaukídár, or within his beat;

(2) of each of the following offences occurring in such village or on such beat (that is to say,) murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences.

(*b*).—He shall keep the police informed of all disputes which are likely to lead to any riot or serious affray.

(*c*).—He shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (*a*), clause (2) of this section.

(*d*).—He shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat.

(*e*).—He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood.

(*f*).—He shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on arrest by village or road policeman.

33. Whenever a village policeman or road policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

Liabilities of Village and Road Police.

Dismissal of village or road policeman.

34. The Magistrate of the district may dismiss any village policeman or road policeman for any misconduct or neglect of duty.

Acts punishable.

35. Every village policeman and every road policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,

or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections twenty-seven, thirty and thirty-one (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section thirty-seven and for the time being in force,

Penalty.

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay or to imprisonment for a period not exceeding three months, or to both.

Fines to be credited to such fund as Government appoints.

36. All fines levied under this Act on village policemen or road policemen shall be credited to such fund as the Local Government from time to time appoints.

CHAPTER V.

SUBSIDIARY RULES.

Power to make rules.

37. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, make rules consistent with this Act as to—

(*a*) the discipline and remuneration of the village and road police and the regulation of their number, location and duties;

(*b*) the entry into cities or towns of bands of armed men;

(*c*) prohibiting bands of foreign vagrants from entering or requiring them to leave any district;

(*d*) the disposal of unclaimed property under Act No. V of 1861 (*for the regulation of Police,*) sections 25, 26, 27;

(*e*) public health and conservancy at fairs and other large public assemblies, and the maintenance of a proper watch and ward at such fairs and assemblies;

(*f*) imposing with the previous sanction of the Governor General in Council taxes for those purposes only;

(*g*) the manner in which records, civil, criminal and revenue, shall be kept; the appointment and removal of the persons entrusted with the custody of records, and all other matters connected with such custody and the destruction from time to time of such records as it may be deemed unnecessary to keep;

(*h*) the appointment, duties, punishment and dismissal of all ministerial officers other than those employed in the Civil Courts and those in respect of whom provision is made in the Oudh Revenue Act.

Publication of rules.

38. All rules made by the Chief Commissioner under section thirty-seven and all rules made by the Judicial Commissioner under section twenty-six shall be published in the local official *Gazette*, and shall thereupon have the force of law.

Rules prescribed in respect of matters for which rules may be made under this Act, to remain in force for twelve months.

39. All rules heretofore prescribed by competent authority in respect of any of the matters for which rules may be made under this Act, shall remain in force for twelve months after this Act comes into force, unless any rules on the same subject are previously issued by the Chief Commissioner or Judicial Commissioner.

Penalty for breach of rules.

40. Whoever breaks any rule made under this Act, shall, on conviction before a Magistrate, be punishable with a fine not exceeding fifty rupees, or imprisonment not exceeding a period of six months, or with both.

CHAPTER VI.

MISCELLANEOUS.

Honorary Civil Jurisdiction.

Power to invest Talukdárs with civil jurisdiction.

41. The Chief Commissioner may from time to time by notification in the official *Gazette*

(*a*) invest such persons as he thinks fit to be Honorary Assistant Commissioners with the powers of a Civil Court of the first or second grade,

(*b*) declare what shall be in each such case the local limits of the jurisdiction so conferred, and

(*c*) withdraw such jurisdiction.

Honorary Police Officers.

Honorary police officers.

42. The Chief Commissioner may from time to time confer on any person whom he thinks fit any power which may be exercised by a police officer under any Act for the time being in force, and withdraw any power so conferred.

Armed men and Foreign Vagrants.

Bands of armed men.

43. No band of armed men shall enter into any city or town, except with the consent of the Chief Commissioner or of such officer as he may empower in this behalf.

Foreign vagrants.

44. The Magistrate of the district may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace, or to commit any offence under the Indian Penal Code, prohibit such band from entering his district, or, if they are already in his district, may require them within a given time to leave it.

Procedure when they disobey Magistrate's orders.

45. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Chief Commissioner, and the Chief Commissioner may give such directions for the supervision, control, or deportation of such band as to him seems fit.

Pasturage of Government lands.

Pasturage of Government lands.

46. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent of the Chief Commissioner or of such officer as he may empower in this behalf.

Power to create new Districts.

47. The Governor General in Council may by notification in the *Gazette of India* create new Districts in any part of such territories, for any revenue, judicial or other purpose, and may alter the limits of existing Districts.

Power to form Sub-divisions of Districts.

The Chief Commissioner may from time to time divide any District into Sub-divisions, and from time to time alter the limits of such Sub-divisions.

All existing tahsíls shall be Sub-divisions of Districts until they are so altered.

THE FIRST SCHEDULE.

(*See section* 2).

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in Oudh, except those specified in the second schedule, and, except when expressly provided otherwise in this Act, all rules, Laws and Regulations made for the Province of Oudh, or any part thereof, which have acquired the force of law under the Indian Councils' Act.	
	Government Notification No. 4325 of 6th August 1861.	The whole.
XXI of 1857 ...	Gambling	Sections ten to fifteen.
XIX of 1863 ...	Partition	The whole.
XXXII of 1871 ...	The Oudh Civil Courts Act	Section thirty-one.

THE SECOND SCHEDULE.

(*See section* 3).

PART I.—BENGAL REGULATIONS.

Number and year.	Subject.	Modifications.
XXXIII of 1803 ...	Embezzlement by Native Officers.	In section II, *omit* the first sentence of the second clause, and in the second sentence of the same clause, *omit* "such" and "accordingly." In section III, *for* "Dewanny Adawlut of the Zillah, the Judge of which Court shall detain him" *read* "District, where he shall be detained;" *for* "real or personal" *read* "moveable or immoveable;" *for* "city" *read* "jurisdiction;" *for* "Board of Revenue" *read* "Chief Commissioner." In section IV, *omit* the words "or in either of the cities of Patna, Dacca or Moorshedabad."
X of 1804 ...	Punishment by Courts Martial of certain State offences.	*Omit* section I. In section II, *for* "the British territories subject to the Government of the Presidency of Fort William" *read* "the territories under the administration of the Chief Commissioner of Oudh." In section IV, *omit* "or before any special Court appointed for the trial of such offences under Regulation IV, 1799, and Regulation XX, 1803."

Number and year.	Subject.	Modifications.
XI of 1806 ...	Assistance to troops and travellers passing through Districts.	*Omit* sections I, VII, IX to XX (both inclusive), and so much of the rest of the Regulation as authorises Collectors and their native officers, or Magistrates and their police officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers. *For* "Collectors of Revenue" and "Collector" *read* "Deputy Commissioner" throughout the Regulation. In sections II and III, *for* "the Company's territories" *read* "Oudh." In section II, *omit* the last sentence. In section IV, clause *Third*, *for* "Governor General in Council" *read* "Chief Commissioner." In section V, *omit* "the Company's;" and *for* "Board of Revenue" *read* "Chief Commissioner." In section VI, *for* "Magistrate" *read* "Deputy Commissioner" and *for* "on the part of the Collector" *read* "by the Deputy Commissioner." In section VIII, *for* "the Company's provinces" *read* "Oudh;" and *omit* the words and figures ("under the rules prescribed by Regulation V, 1804.)"
XVII of 1806 ...	Redemption and foreclosure of mortgages.	*Omit* sections I to VI (both inclusive), and in section VII, the first sentence as far as the word "designation" and the concluding sentence. In section VII, *for* "within one year (Bengal Fassily or Willaity according to the era current where the mortgage may take place)" *read* "within one calendar year;" *for* "Zillah or City Court of Dewanny Adawlut" *read* "Deputy Commissioner;" *for* "Dewanny Adawlut of the Zillah or City" *read* "Court of the Deputy Commissioner or other officer having jurisdiction with reference to the value of the subject matter." In section VIII, *for* "preamble and preceding sections" *read* "preceding section;" *for* "Judge of the Zillah or City" *read* "Deputy Commissioner of the District," and *for* "Judge" *read* "Deputy Commissioner."
XX of 1810 ...	Military Bázárs.	
V of 1817 ...	Hidden Treasure ...	In section V, *for* "Board of Revenue" *read* "Chief Commissioner;" *for* "Judge" *read* "Deputy Commissioner." In section VI, *for* "Zillah or City Judge" *read* "Deputy Commissioner." In section VIII, *for* "Judge of the Zillah or City Court" *read* "Deputy Commissioner," and *omit* the words "on the application of the vakeel of Government under instructions from the Board of Revenue." In section IX, *for* "Judges of the Zillah Courts" *read* "Deputy Commissioners."
III of 1818 ...	State Prisoners ...	In section IV, *omit* clause *First*. In the same section, clause *Second*, *for* "Zillah or City Magistrate" *read* "Deputy Commissioner," and *for* "Judge of Circuit" *read* "Commissioner of Division." *Omit* section VIII, and the last twenty-five words of the preamble. In section IX, *for* "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut" *read* "and to the Judicial Commissioner."
VI of 1819 ...	Ferries	*Omit* section II.

Number and year.	Subject.	Modifications.
		Omit "or Joint Magistrates," "and Joint Magistrates" and "or Joint Magistrate," wherever they occur. In section I, *for* "subject to the Presidency of Fort William in Bengal" *read* "under the administration of the Chief Commissioner of Oudh," and *for* "Government" *read* "Chief Commissioner." In section III, clause *Second, omit* "by the Collectors, under the provisions of Regulation XIX, 1816." In the same section, clause *Third, for* "Superintendents of Police" *read* "Commissioners of Divisions," and *for* "Government" *read* "Chief Commissioner," and *add* "who shall fix the rates of toll to be levied at such ferries." In section IV, clause *First, omit* "for limiting the rates of toll to be levied at each ferry." In section V, *omit* "and in that of the Collector of the District." In section VI, clause *Second, for* "Superintendents of Police" *read* "Commissioners of Divisions," and *for* "Government" *read* "Chief Commissioner." In section VII, clause *First, omit* "they shall fix the rates of toll on a very moderate scale in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816." In the same section, clause *Third, for* "Government" *read* "Chief Commissioner," *for* "Bengal Fussily year according to the *era* current in the province" *read* "term of his lease." In the same section, clause *Fourth, for* "Magistrate and Collector," *read* "Deputy Commissioner," and *omit* "European." In section X, *omit* "from" and including the words "in the manner" down to the end of the section, and substitute "in the manner prescribed for recovery of arrears of revenue." In section XI, *for* "Magistrates reserve to themselves" *read* "the Chief Commissioner reserves to himself." In section XII, clause *First*, line one, *for* "Magistrate" *read* "Chief Commissioner," and in line four *omit* "said." In section XIII, *omit* the *Second* clause. In section XIV, *omit* the second sentence, and *for* "Superintendents of Police" *read* "Commissioner of Division."
XI of 1822 ...	Non-liability of Government for errors of a Court of Justice.	*Omit* the whole except section thirty-eight.
VI of 1825 ...	Supply of troops on the march.	In the preamble, *omit* the last twenty words. In section IV, *for* "Board of Revenue in whose jurisdiction the district may be situate" and "the Board" *read* "Commissioner." In section V, *omit* "on the stamped paper prescribed for other appeals to the Revenue Boards," and *for* "proper Board" and "the Board" *read* "Commissioner."
XI of 1825 ...	Alluvion and Diluvion ...	*Omit* section I. In section III, *omit* "either" and "or the sea."

Number and year.	Subject.	Modifications.
		In section IV, clause *First, omit* "whether" and "or of the sea," and *for* "the provisions of Regulation II, 1819, or of any other Regulation," *read* "any law in force for the time being;" clause *Third, omit* "or in the sea" and "or sea;" clause *Fifth, omit* "or the sea." In section V, *for* "Zillah and City Magistrates" *read* "Deputy Commissioners."
XX of 1825 ...	Military Courts of Requests	*Omit* sections I, III, and IV and section II, clause *Sixth*. In section II, clause *First, omit* from the beginning down to and including "provided that;" and *for* "His Majesty or of the Hon'ble East India Company" *read* "Her Majesty;" and *for* "not within the territories subject to the Presidency of Fort William or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency" *read* "within Oudh;" and *for* "a person attached to such body of troops in any of the capacities specified in sections XLV and LX of Statute IV, Geo. IV, cap. LXXXI," *read* "otherwise subject to the provisions of the Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force;" and *omit* "as directed in such cases in the Regulations abovementioned;" and *for* "Act of Parliament" *read* "the Mutiny Act for the time being in force." In the same section, clause *Third, for* "Act of Parliament" *read* "Mutiny Act;" and *for* "Magistrate of the Zillah or City" *read* "Deputy Commissioner." In the same section, clause *Fourth, for* "Zillah and City Magistrates" *read* "Deputy Commissioners;" and *omit* "of the nature described in section II of Statute IV, Geo. IV, cap. LXXXI," and "under the provisions of the said Act" and "under the provisions of the Regulations hitherto in force."

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Modifications.
XIII of 1857 ...	Opium	In preamble, *after* "the Presidency of Fort William in Bengal" *read* "and the territories under the administration of the Chief Commissioner of Oudh." In section II, *after* "Presidency of Fort William in Bengal," *read* "and the administration of the Chief Commissioner of Oudh." In section III, *omit* "being covenanted servants of the Company."
XL of 1858 ...	Minors	In the title, *for* "the Presidency of Fort William in Bengal" *read* "Oudh." In section II, *for* "estates paying revenue to Government" *read* "mahâls assessed to revenue or held revenue-free."

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 9, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th September 1876, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 10 of 1876.

A Bill to amend the Land Improvement Act, 1871.

Preamble. Whereas doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows:—

Local extent. 1. This Act extends to the whole of British India:

Construction. It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed to have come into force on the twenty-eighth day

Commencement. of September 1871, being the day on which the said Act came into force.

Amendment of Act XXVI of 1871, section 15. 2. Section fifteen of the said Act is repealed, and instead thereof the following section shall be substituted:—

"15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways:—

(*a*) from the borrower as if they were arrears of land-revenue due from him:

(*b*) from the surety (if any) as if they were arrears of land-revenue due from him:

(*c*) out of the land to be improved as if they were arrears of land-revenue due on account of such land:

(*d*) out of the property comprised in the collateral security (if any) according to the terms of such security:

Provided—

(*e*) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance:

(*f*) that if the borrower is such a tenant as is mentioned in section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance:

(*g*) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same claims and remedies against the borrower and the land to be improved as the Government had when the advance was due."

STATEMENT OF OBJECTS AND REASONS.

The Land Improvement Act (XXVI of 1871), section 14, provides that every certificate granted by a Collector making advances under the Act shall specify the amount of the advance, the position, extent and boundaries of the land to be improved and the nature and amount of the security (if any) other than the land to be improved. Section 15 then provides that the amount so specified shall be recoverable "from the person to whom the advance was made, *or* from any person who has become security for the repayment thereof, as if they were arrears of land-revenue due by the person to whom the advance was made or by his security."

The remainder of section 15 is as follows:—

"If any such sum cannot be so recovered, it shall be recoverable as if it was an arrear of revenue due on *the land specified in the said certificate*:

"Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of *no person, other than such landlord or tenant, in the said land*, shall be sold under this section."

On this clause two questions have arisen: First, is the advance made by Government a first charge on the land to be improved, in preference to all other charges, whether they have priority in point of time or not? Secondly, does the expression "land specified in the said certificate" include any land which might be given as security?

The object of the present Bill is to clear up these doubts; and it will be seen that it does so in accordance with what is believed to have been the principles on which the Act was framed, and with the undoubted understanding on which all loans have hitherto been made, received and recovered, *viz.*, that Government advances should be a charge on the land to be improved in preference to all other charges on, and interests in, such land, and that if other land be given as security, the Government advance should rank with other charges thereon in the same way as if it were an ordinary advance by a private person.

It might also be contended that, on the strict literal construction of the clause, the surety must be sued before all the remedies against the principal are exhausted. That is not just, and was not intended. The opportunity is therefore taken of removing doubts on this head, and of making it clear that the remedies against principal and surety stand on the usual footing.

SIMLA;
The 28th August 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 16, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th September 1876, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 10 of 1876.

A Bill to amend the Land Improvement Act, 1871.

Preamble. Whereas doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows:—

Local extent. 1. This Act extends to the whole of British India:

Construction. It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed to have come into force on the twenty-eighth day

Commencement. of September 1871, being the day on which the said Act came into force.

Amendment of Act XXVI of 1871, section 15. 2. Section fifteen of the said Act is repealed, and instead thereof the following section shall be substituted:—

"15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways:—

(*a*) from the borrower as if they were arrears of land-revenue due from him:

(*b*) from the surety (if any) as if they were arrears of land-revenue due from him:

(*c*) out of the land to be improved as if they were arrears of land-revenue due on account of such land:

(*d*) out of the property comprised in the collateral security (if any) according to the terms of such security:

Provided—

(*e*) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance:

(*f*) that if the borrower is such a tenant as is mentioned in section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance:

(*g*) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same claims and remedies against the borrower and the land to be improved as the Government had when the advance was due."

STATEMENT OF OBJECTS AND REASONS.

The Land Improvement Act (XXVI of 1871), section 14, provides that every certificate granted by a Collector making advances under the Act shall specify the amount of the advance, the position, extent and boundaries of the land to be improved and the nature and amount of the security (if any) other than the land to be improved. Section 15 then provides that the amount so specified shall be recoverable "from the person to whom the advance was made, *or* from any person who has become security for the repayment thereof, as if they were arrears of land-revenue due by the person to whom the advance was made or by his security."

The remainder of section 15 is as follows:—

"If any such sum cannot be so recovered, it shall be recoverable as if it was an arrear of revenue due on *the land specified in the said certificate*:

"Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of *no person, other than such landlord or tenant, in the said land*, shall be sold under this section."

On this clause two questions have arisen: First, is the advance made by Government a first charge on the land to be improved, in preference to all other charges, whether they have priority in point of time or not? Secondly, does the expression "land specified in the said certificate" include any land which might be given as security?

The object of the present Bill is to clear up these doubts; and it will be seen that it does so in accordance with what is believed to have been the principles on which the Act was framed, and with the undoubted understanding on which all loans have hitherto been made, received and recovered, *viz.*, that Government advances should be a charge on the land to be improved in preference to all other charges on, and interests in, such land, and that if other land be given as security, the Government advance should rank with other charges thereon in the same way as if it were an ordinary advance by a private person.

It might also be contended that, on the strict literal construction of the clause, the surety must be sued before all the remedies against the principal are exhausted. That is not just, and was not intended. The opportunity is therefore taken of removing doubts on this head, and of making it clear that the remedies against principal and surety stand on the usual footing.

SIMLA;
The 28th August 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in five months:—

No. 11 of 1876.

THE INDIAN RAILWAY BILL, 1876.

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SCHEDULE.

A Bill to consolidate and amend the Law relating to Railways in India.

Preamble. Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

CHAPTER I.
PRELIMINARY.

Short title. 1. This Act may be called "The Indian Railway Act, 1876:"

Local extent. It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty:

Commencement. And it shall come into force on the first day of March 1877.

Repeal of Acts. 2. On and from that day, the Acts specified in the schedule hereto annexed shall be repealed.

All rules made, notifications published, and powers conferred under any of such Acts shall be deemed to have been respectively made, published and conferred under this Act.

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

'Railway.' "Railway" includes—

(*a*) railways belonging to and worked by Companies:

(*b*) railways belonging to Government but worked by Companies:

(*c*) railways worked by Government:

(*d*) land within the fences or other boundary-marks prescribed under section forty-five:

(*e*) all lines of rail, sidings or branches, worked over for the purposes of, or in connexion with, a railway:

(*f*) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connexion with, a railway:

And in the following sections (namely) 11, 13, 18, 21, 22, 26, 27 and 32 to 39 (both inclusive), "Railway" includes a railway under construction or not used for the public conveyance of passengers or goods.

'Railway officer.' "Railway officer" means any person employed by a Railway Company or the Government to perform any function in connection with a Railway.

'Passenger.' "Passenger" means a passenger by Railway.

'Magistrate.' "Magistrate" means any person lawfully exercising the powers of a Magistrate and includes a Presidency Magistrate.

'Fine.' "Fine" includes a sum of money due upon a forfeited recognizance.

All opened Railways presumed within the Act. 4. Every Railway used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to or by whom any such Railway belongs or is worked shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

CHAPTER II.
RULES RELATING TO RAILWAY COMPANIES.

No liability for unbooked luggage. 5. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss or injury to any

passenger's luggage, unless it has been booked and separately paid for and made over to the charge of a Railway officer.

No liability for loss of gold, silver, &c., unless in case of special engagement.

6. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss of or injury to any of the following articles (namely),—

(*a*) gold or silver, coined or uncoined, manufactured or unmanufactured,

(*b*) plated articles,

(*c*) cloths and tissue of which gold and silver form part,

(*d*) precious stones, jewellery, trinkets,

(*e*) watches, clocks, or time-pieces of any description,

(*f*) Government securities,

(*g*) Government stamp-paper, postage stamps, telegraph stamps,

(*h*) bills of exchange, promissory notes, bank-notes, orders, or other securities for payment of money,

(*i*) maps, writings, title-deeds,

(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture,

(*k*) glass, china,

(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials,

(*m*) shawls,

(*n*) lace,

(*o*) opium,

(*p*) ivory, ebony, sandalwood,

(*q*) musical instruments,

contained in any parcel or package delivered to such Company or the Government, either to be carried on a Railway for hire or to accompany the person of any passenger, unless the value and nature of such articles have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same has been accepted by some person specially authorized to enter into such engagements on behalf of the Company or Government.

Public notice or private contract not to limit liability.

7. The liability of a Railway Company, or (in the case of a Railway worked by Government) of the Government, for loss of or injury to any articles or goods to be carried by Railway other than those specially provided for by this Act shall not be limited or otherwise affected by any public notice given, or any private contract made, by the Company or the Government;

but the Company, or (in the case of a Railway worked by Government) the Government, shall be answerable for such loss or injury when it has been caused by gross negligence or misconduct on the part of their agents or servants.

Lien for money due for carriage of goods.

8. If any person fail to pay on demand any sum due for conveyance of any goods by Railway, the Company, or (in the case of a Railway worked by Government) the Government, may detain all or any part of such goods, or, if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Company or Government;

and may also sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may out of the proceeds of the sale, retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as remain unsold, to the person entitled thereto.

Written account of goods to be given on demand.

9. The owner or person having the care of any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods.

Carriage of goods of a dangerous nature.

10. Any Railway officer may refuse to carry upon a Railway any luggage or parcel which he suspects to contain goods of a dangerous nature, and may require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

Accident to be reported.

11. Every Railway Company, and every officer controlling a Railway worked by Government, shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company or so worked by Government of any accident attended with serious personal injury, give notice thereof to the Local Government.

Returns of accidents in course of traffic.

12. The Local Government may direct any Railway Company or any officer controlling a Railway worked by Government to make up and deliver to the Local Government a return of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, or so worked by Government whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

Power to make rules for working Railway.

13. Every Railway Company, and every officer controlling a Railway worked by Government, may respectively from time to time, with the previous sanction of the Governor General in Council, make general rules for the use, working and general administration of the Railway belonging to such Company or so worked by Government.

Publication of rules.

All such rules shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway officers and the public in such manner as the Governor General in Council, from time to time, directs.

Penalty for breach of rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding fifty rupees, or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

Power to cancel rules.

The Governor General in Council may at any time cancel any rule so sanctioned.

Copy and translation of Act, &c., to be shown at stations.

14. A copy of this Act, and of the General Rules, Time-tables, and Tariff of charges, which may from time to time be published for any Railway by any Railway Company with the sanction of the Local Government, or (in the case of a Railway worked by Government) by the officer controlling the same, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the Vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

CHAPTER III.

RULES RELATING TO PASSENGERS.

Passengers on payment of fares to be furnished with tickets.

15. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the place from and place to which the fare has been paid, and shall, when required, show his ticket to any Railway officer duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway officer duly authorized to collect tickets.

Tickets to be shown and given up on demand.

Fares and tickets at intermediate stations.

16. At the intermediate stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

Preferential right to tickets.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Proviso.

Provided that all officers and troops of Her Majesty, on duty, and all other persons on the business of the Government, who by virtue of any contract with the Government are entitled to be conveyed on a Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Fares to be prepaid.

17. No person shall enter any carriage used on any Railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket.

Passengers not to carry dangerous goods.

18. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which, in the judgment of any Railway officer, is or are of a dangerous nature.

CHAPTER IV.

PENALTIES.

(*A.*) *As to Companies.*

For omitting to report accident.

19. Any Railway Company or officer controlling a Railway worked by Government omitting to give notice as required by section eleven, shall forfeit the sum of fifty rupees for every day during which such omission continues.

For not sending return of accidents.

20. Any Railway Company or officer controlling a Railway worked by Government failing to deliver any return mentioned in section twelve, within fourteen days after the same has been required, shall forfeit the sum of fifty rupees for every day during which such failure continues.

(*B.*) *As to Railway Officers.*

For drunkenness or breach of duty.

21. Any Railway officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty,

or who performs the same in an improper manner,

shall be liable to a fine not exceeding fifty rupees;

and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

For endangering the safety of persons.

22. If any Railway officer endangers the safety of any person—

(*a*) by disobeying any general rule sanctioned and notified in the manner prescribed by section thirteen, or

(*b*) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be liable to imprisonment for any term not exceeding three years, or to fine not exceeding five hundred rupees, or to both.

For receiving bribes.

23. Every Railway officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, and every person employed either permanently or temporarily in connection with a Tramway shall be deemed a "public ser-

vant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161 the word "Government" shall, for the purposes of this section, be deemed to include—

Amendment of Penal Code, section 161.

(*a*) a Railway Company,

(*b*) the proprietors for the time being of a Tramway, and

(*c*) the lessees, representatives and assigns of such Company or proprietors.

(*C.*) *As to the Public.*

24. Any passenger not producing or delivering up his ticket when so required by a Railway officer authorized to require such production or delivery, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

For not producing or delivering ticket.

25. Any person who defrauds, or attempts to defraud any Railway Company or the Government

For evading payment of proper fare.

(*a*) by travelling, or attempting to travel, upon any Railway, without having previously paid his fare; or

(*b*) by riding in or upon a carriage of a higher class than that for which he has paid his fare; or

(*c*) by continuing his journey in or upon any Railway carriage beyond the place for which he has paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof;

or who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage;

or who, in any other manner whatever, attempts to evade the payment of his fare,

shall be liable to a fine not exceeding fifty rupees for each offence.

26. Any passenger, who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage is in motion;

For entering carriage in motion,

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers,

For riding on the steps.

shall be liable to a fine not exceeding twenty rupees for each offence.

27. Any person other than the engine-man, fireman, and assistant fireman, who, without the special license of the Superintendent of Locomotives, rides or attempts to ride upon any locomotive engine or tender upon any Railway;

For riding on engine, tender, or luggage-van.

and any person other than the guard or brakesman, who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

28. Whoever smokes, either in a Railway station, or in or upon any Railway carriage, except in places or carriages specially provided for the purpose, shall be liable to a fine not exceeding twenty rupees for each offence;

For smoking.

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway officer, may, in addition to incurring the liability abovementioned, be removed by any Railway officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

29. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway carriage, or upon any part of any Railway;

For intoxication or nuisance.

or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be liable to a fine not exceeding twenty rupees; and in addition to such liability, the offender may be removed by any Railway officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

30. If any special carriage, or portion of a carriage, or any private room or apartment, be provided by any Railway Company or by Government for the exclusive use of females, any male person, who, without lawful excuse, enters such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or remains therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees,

For entering private room or carriage.

and may be removed therefrom, and also from the premises of the Railway, by any Railway officer,

and shall forfeit his fare.

31. Any owner or person referred to in section nine, who wilfully fails to give on demand to any Railway officer appointed as therein mentioned an exact account of the number or quantity and description of the goods therein referred to,

For false account.

or who wilfully gives to such Railway officer a false account thereof,

shall, for every such offence, be liable to a fine not exceeding one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and to a fine not exceeding fifty rupees for any quantity of such goods less than a ton or for any parcel less than one hundredweight.

32. Whoever carries upon a Railway any dangerous goods,

For carrying goods of a dangerous nature.

and whoever delivers to a Railway officer any such goods for the purpose of being carried upon a Railway, without distinctly marking their nature on the outside of the package containing the same,

For delivering such goods without notice.

or otherwise giving notice in writing of the nature thereof to such officer,

shall be liable to a fine not exceeding two hundred rupees for every such offence.

33. Whoever wilfully obstructs or impedes any Railway officer in the discharge of his duty on a Railway, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

For obstructing Railway officer in his duty.

34. Whoever unlawfully and wilfully removes or defaces the number-plates, or removes or extinguishes any lamp on any Railway carriage, or wilfully or negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence, or any other thing belonging to a Railway Company or (in the case of a Railway belonging to or worked by Government) to Government, shall be liable to a fine not exceeding fifty rupees.

For injuring carriage, &c.

35. Whoever trespasses upon a Railway shall be liable to a fine not exceeding twenty rupees;

For trespass.

and if any person so trespassing refuse to leave such Railway on being requested to do so by any Railway officer, or by any other person on behalf of the Railway Company or the officer controlling a Railway worked by Government, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway by such officer or other person as aforesaid.

For refusing to leave on request.

36. The owner or person in charge of any cattle trespassing or straying on any Railway provided with fences suitable for the exclusion of cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

For cattle-trespass within Railway fences.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall on conviction before a Magistrate be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the said Act.

For wilfully driving cattle on fenced Railway.

All fines imposed under this section may be recovered in manner provided by section 25 of the said Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

The expression 'public road' in sections eleven and twenty-six of the said Act shall be deemed to include a Railway. And any Railway officer may exercise the powers of seizure provided by the said section eleven.

Amendment of Act I of 1871, ss. 11 and 26.

Explanation.—In this section the word 'cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

37. Whoever, when any engine or train approaching along a Railway is in sight, opens any gate which has been set up for the use or accommodation of any person by any Railway Company or by Government on either side of the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle, or other animal or thing across the Railway;

For opening or not properly shutting gates.

and whoever at any time omits to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge have passed through the same,

shall be liable to a fine not exceeding fifty rupees.

(*D.*) *As to Railway Officers and the Public.*

38. Whoever, whether a Railway officer or not, wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to endanger the safety of any person travelling or being upon any Railway may be sentenced to transportation (or in the case of an European or American to penal servitude) for life or to imprisonment for any term not exceeding seven years.

For wilful act or omission endangering passenger.

39. Whoever, whether a Railway officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway, shall, upon conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

For an act not wilful.

Apprehension of Offenders.

40. If any person commit any offence hereby made punishable by fine, and the name and address of such person are unknown, or there be reason to believe that he will abscond, any Railway officer or any police-officer, or other person whom such Railway officer or police-officer may call to his aid, may, without any warrant or written authority, apprehend and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

Apprehension for offences punishable by fine.

41. Every person guilty of any offence mentioned in sections 13, 21, 22, 38 and 39 may be apprehended without any warrant or written authority by any Railway officer, or by any other person whom such officer may call to his aid, or by any police-officer empowered to arrest without a warrant;

Apprehension for offences against sections 13, 21, 22, 38 and 39.

and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace authorized to punish the offender or to commit him for trial.

Jurisdiction.

42. Any person, whether a European British subject or not, who is guilty of any offence for which, under this Act, he is liable to a fine only, shall be punishable

Jurisdiction of Magistrate, &c., to fine.

for such offence by any Magistrate, whether the offence has been committed within the local limits of his jurisdiction or not.

Jurisdiction of Justices to try Europeans for breach of general rules.

43. Any Justice of the Peace may try a European British subject for an offence under section thirteen and may on conviction award a sentence within the limits thereby prescribed for such offence.

Heads of District Police, &c., in Madras.

44. The heads of district police and amíns of police in the Presidency of Fort Saint George may punish, to the extent of their jurisdiction in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

CHAPTER V.

MISCELLANEOUS.

Power of Government to make rules as to fences, gates and bars.

45. The Governor General in Council, or the Local Government with the sanction of the Governor General in Council, may, from time to time, make rules for providing

(*a*) boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connexion therewith,

(*b*) gates or bars at places where any Railway crosses a road on the level, and

(*c*) persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section thirty-six, be deemed to be suitable for the exclusion of cattle.

Power to declare Local Government in respect of any Railway.

46. The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what Government or other authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

SCHEDULE.

ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

STATEMENT OF OBJECTS AND REASONS.

Doubts having arisen as to whether certain sections of the Railway Act (XVIII of 1854) applied to lines under construction or not opened for public conveyance of passengers and goods, the present Bill has been prepared with the primary object of removing these doubts.

At the same time the opportunity has been taken to consolidate four out of the five Acts in which the Railway law of India is now contained, and to make the following amendments therein:

Companies will not be answerable for loss or injury to luggage unless it has been, not only booked and paid for, but made over to the charge of a Railway officer.

The following articles (namely), cloths and tissue of which gold or silver forms part, telegraph stamps, lithographs, photographs, carvings, sculpture, opium, ivory, ebony, sandalwood, and musical instruments, have been added to the list of articles, for losing or injuring which Companies will not be liable except in case of special engagement.

The clause as to receiving bribes has been made to apply, not only to Railway officers, but also to every other person employed by or on behalf of a Railway Company to do any act upon the Railway.

The fines for giving false account of the goods carried, or to be carried on a Railway, have been raised respectively from Rs. 50 and Rs. 20 to Rs. 100 and Rs. 50.

SIMLA,
The 2nd September 1876. } A. CLARKE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 23, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th September 1876, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 10 of 1876.

A Bill to amend the Land Improvement Act, 1871.

Preamble.

Whereas doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows:—

Local extent.

1. This Act extends to the whole of British India:

Construction.

It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed to have come into force on the twenty-eighth day of September 1871, being the day on which the said Act came into force.

Commencement.

Amendment of Act XXVI of 1871, section 15.

2. Section fifteen of the said Act is repealed, and instead thereof the following section shall be substituted:—

"15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways:—

(*a*) from the borrower as if they were arrears of land-revenue due from him:

(*b*) from the surety (if any) as if they were arrears of land-revenue due from him:

(*c*) out of the land to be improved as if they were arrears of land-revenue due on account of such land:

(*d*) out of the property comprised in the collateral security (if any) according to the terms of such security:

Provided—

(*e*) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance:

(*f*) that if the borrower is such a tenant as is mentioned in section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance:

(*g*) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same claims and remedies against the borrower and the land to be improved as the Government had when the advance was due."

STATEMENT OF OBJECTS AND REASONS.

The Land Improvement Act (XXVI of 1871), section 14, provides that every certificate granted by a Collector making advances under the Act shall specify the amount of the advance, the position, extent and boundaries of the land to be improved and the nature and amount of the security (if any) other than the land to be improved. Section 15 then provides that the amount so specified shall be recoverable "from the person to whom the advance was made, *or* from any person who has become security for the repayment thereof, as if they were arrears of land-revenue due by the person to whom the advance was made or by his security."

The remainder of section 15 is as follows:—

"If any such sum cannot be so recovered, it shall be recoverable as if it was an arrear of revenue due on *the land specified in the said certificate*:

"Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of *no person, other than such landlord or tenant, in the said land*, shall be sold under this section."

On this clause two questions have arisen: First, is the advance made by Government a first charge on the land to be improved, in preference to all other charges, whether they have priority in point of time or not? Secondly, does the expression "land specified in the said certificate" include any land which might be given as security?

The object of the present Bill is to clear up these doubts; and it will be seen that it does so in accordance with what is believed to have been the principles on which the Act was framed, and with the undoubted understanding on which all loans have hitherto been made, received and recovered, *viz.*, that Government advances should be a charge on the land to be improved in preference to all other charges on, and interests in, such land, and that if other land be given as security, the Government advance should rank with other charges thereon in the same way as if it were an ordinary advance by a private person.

It might also be contended that, on the strict literal construction of the clause, the surety must be sued before all the remedies against the principal are exhausted. That is not just, and was not intended. The opportunity is therefore taken of removing doubts on this head, and of making it clear that the remedies against principal and surety stand on the usual footing.

SIMLA;
The 28th August 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in five months:—

No. 11 of 1876.

THE INDIAN RAILWAY BILL, 1876.

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SCHEDULE.

A Bill to consolidate and amend the Law relating to Railways in India.

Preamble. Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

CHAPTER I.
PRELIMINARY.

Short title. 1. This Act may be called "The Indian Railway Act, 1876:"

Local extent. It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty:

Commencement. And it shall come into force on the first day of March 1877.

Repeal of Acts. 2. On and from that day, the Acts specified in the schedule hereto annexed shall be repealed.

All rules made, notifications published, and powers conferred under any of such Acts shall be deemed to have been respectively made, published and conferred under this Act.

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

'Railway.' "Railway" includes—

(*a*) railways belonging to and worked by Companies:

(*b*) railways belonging to Government but worked by Companies:

(*c*) railways worked by Government:

(*d*) land within the fences or other boundary-marks prescribed under section forty-five:

(*e*) all lines of rail, sidings or branches, worked over for the purposes of, or in connexion with, a railway:

(*f*) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connexion with, a railway:

And in the following sections (namely) 11, 13, 18, 21, 22, 26, 27 and 32 to 39 (both inclusive), "Railway" includes a railway under construction or not used for the public conveyance of passengers or goods.

'Railway officer.' "Railway officer" means any person employed by a Railway Company or the Government to perform any function in connection with a Railway.

'Passenger.' "Passenger" means a passenger by Railway.

'Magistrate.' "Magistrate" means any person lawfully exercising the powers of a Magistrate and includes a Presidency Magistrate.

'Fine.' "Fine" includes a sum of money due upon a forfeited recognizance.

All opened Railways presumed within the Act. 4. Every Railway used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to or by whom any such Railway belongs or is worked shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

CHAPTER II.
RULES RELATING TO RAILWAY COMPANIES.

No liability for unbooked luggage. 5. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss or injury to any

passenger's luggage, unless it has been booked and separately paid for and made over to the charge of a Railway officer.

No liability for loss of gold, silver, &c., unless in case of special engagement.

6. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss of or injury to any of the following articles (namely),—

(*a*) gold or silver, coined or uncoined, manufactured or unmanufactured,

(*b*) plated articles,

(*c*) cloths and tissue of which gold and silver form part,

(*d*) precious stones, jewellery, trinkets,

(*e*) watches, clocks, or time-pieces of any description,

(*f*) Government securities,

(*g*) Government stamp-paper, postage stamps, telegraph stamps,

(*h*) bills of exchange, promissory notes, bank-notes, orders, or other securities for payment of money,

(*i*) maps, writings, title-deeds,

(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture,

(*k*) glass, china,

(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials,

(*m*) shawls,

(*n*) lace,

(*o*) opium,

(*p*) ivory, ebony, sandalwood,

(*q*) musical instruments,

contained in any parcel or package delivered to such Company or the Government, either to be carried on a Railway for hire or to accompany the person of any passenger, unless the value and nature of such articles have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same has been accepted by some person specially authorized to enter into such engagements on behalf of the Company or Government.

Public notice or private contract not to limit liability.

7. The liability of a Railway Company, or (in the case of a Railway worked by Government) of the Government, for loss of or injury to any articles or goods to be carried by Railway other than those specially provided for by this Act shall not be limited or otherwise affected by any public notice given, or any private contract made, by the Company or the Government;

but the Company, or (in the case of a Railway worked by Government) the Government, shall be answerable for such loss or injury when it has been caused by gross negligence or misconduct on the part of their agents or servants.

Lien for money due for carriage of goods.

8. If any person fail to pay on demand any sum due for conveyance of any goods by Railway, the Company, or (in the case of a Railway worked by Government) the Government, may detain all or any part of such goods, or, if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Company or Government;

and may also sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may out of the proceeds of the sale, retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as remain unsold, to the person entitled thereto.

Written account of goods to be given on demand.

9. The owner or person having the care of any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods.

Carriage of goods of a dangerous nature.

10. Any Railway officer may refuse to carry upon a Railway any luggage or parcel which he suspects to contain goods of a dangerous nature, and may require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

Accident to be reported.

11. Every Railway Company, and every officer controlling a Railway worked by Government, shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company or so worked by Government of any accident attended with serious personal injury, give notice thereof to the Local Government.

Returns of accidents in course of traffic.

12. The Local Government may direct any Railway Company or any officer controlling a Railway worked by Government to make up and deliver to the Local Government a return of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, or so worked by Government whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

Power to make rules for working Railway.

13. Every Railway Company, and every officer controlling a Railway worked by Government, may respectively from time to time, with the previous sanction of the Governor General in Council, make general rules for the use, working and general administration of the Railway belonging to such Company or so worked by Government.

Publication of rules.

All such rules shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway officers and the public in such manner as the Governor General in Council, from time to time, directs.

Penalty for breach of rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding fifty rupees, or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

Power to cancel rules.

The Governor General in Council may at any time cancel any rule so sanctioned.

Copy and translation of Act, &c., to be shown at stations.

14. A copy of this Act, and of the General Rules, Time-tables, and Tariff of charges, which may from time to time be published for any Railway by any Railway Company with the sanction of the Local Government, or (in the case of a Railway worked by Government) by the officer controlling the same, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the Vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

CHAPTER III.

RULES RELATING TO PASSENGERS.

Passengers on payment of fares to be furnished with tickets.

15. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the place from and place to which the fare has been paid, and shall, when required, show his ticket to any Railway officer duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway officer duly authorized to collect tickets.

Tickets to be shown and given up on demand.

Fares and tickets at intermediate stations.

16. At the intermediate stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

Preferential right to tickets.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Proviso.

Provided that all officers and troops of Her Majesty, on duty, and all other persons on the business of the Government, who by virtue of any contract with the Government are entitled to be conveyed on a Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Fares to be prepaid.

17. No person shall enter any carriage used on any Railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket.

Passengers not to carry dangerous goods.

18. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which, in the judgment of any Railway officer, is or are of a dangerous nature.

CHAPTER IV.

PENALTIES.

(*A.*) *As to Companies.*

For omitting to report accident.

19. Any Railway Company or officer controlling a Railway worked by Government omitting to give notice as required by section eleven, shall forfeit the sum of fifty rupees for every day during which such omission continues.

For not sending return of accidents.

20. Any Railway Company or officer controlling a Railway worked by Government failing to deliver any return mentioned in section twelve, within fourteen days after the same has been required, shall forfeit the sum of fifty rupees for every day during which such failure continues.

(*B.*) *As to Railway Officers.*

For drunkenness or breach of duty.

21. Any Railway officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty,

or who performs the same in an improper manner,

shall be liable to a fine not exceeding fifty rupees;

and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

For endangering the safety of person.

22. If any Railway officer endangers the safety of any person—

(*a*) by disobeying any general rule sanctioned and notified in the manner prescribed by section thirteen, or

(*b*) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be liable to imprisonment for any term not exceeding three years, or to fine not exceeding five hundred rupees, or to both.

For receiving bribes.

23. Every Railway officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, and every person employed either permanently or temporarily in connection with a Tramway shall be deemed a "public ser-

vant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

Amendment of Penal Code, section 161.

In the definition of legal remuneration contained in the said section 161 the word "Government" shall, for the purposes of this section, be deemed to include—

(*a*) a Railway Company,

(*b*) the proprietors for the time being of a Tramway, and

(*c*) the lessees, representatives and assigns of such Company or proprietors.

(*C.*) *As to the Public.*

For not producing or delivering ticket.

24. Any passenger not producing or delivering up his ticket when so required by a Railway officer authorized to require such production or delivery, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

For evading payment of proper fare.

25. Any person who defrauds, or attempts to defraud any Railway Company or the Government

(*a*) by travelling, or attempting to travel, upon any Railway, without having previously paid his fare; or

(*b*) by riding in or upon a carriage of a higher class than that for which he has paid his fare; or

(*c*) by continuing his journey in or upon any Railway carriage beyond the place for which he has paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof;

or who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage;

or, who, in any other manner whatever, attempts to evade the payment of his fare,

shall be liable to a fine not exceeding fifty rupees for each offence.

For entering carriage in motion.

26. Any passenger, who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage is in motion;

For riding on the steps.

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

For riding on engine, tender, or luggage-van.

27. Any person other than the engine-man, fire-man, and assistant fire-man, who, without the special license of the Superintendent of Locomotives, rides or attempts to ride upon any locomotive engine or tender upon any Railway;

and any person other than the guard or brakeman, who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

For smoking.

28. Whoever smokes, either in a Railway station, or in or upon any Railway carriage, except in places or carriages specially provided for the purpose, shall be liable to a fine not exceeding twenty rupees for each offence;

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway officer, may, in addition to incurring the liability abovementioned, be removed by any Railway officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

For intoxication or nuisance.

29. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway carriage, or upon any part of any Railway;

or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be liable to a fine not exceeding twenty rupees; and in addition to such liability, the offender may be removed by any Railway officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

For entering private room or carriage.

30. If any special carriage, or portion of a carriage, or any private room or apartment, be provided by any Railway Company or by Government for the exclusive use of females, any male person, who, without lawful excuse, enters such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or remains therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway officer,

and shall forfeit his fare.

For false account.

31. Any owner or person referred to in section nine, who wilfully fails to give on demand to any Railway officer appointed as therein mentioned an exact account of the number or quantity and description of the goods therein referred to,

or who wilfully gives to such Railway officer a false account thereof,

shall, for every such offence, be liable to a fine not exceeding one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and to a fine not exceeding fifty rupees for any quantity of such goods less than a ton or for any parcel less than one hundredweight.

For carrying goods of a dangerous nature.

32. Whoever carries upon a Railway any dangerous goods,

For delivering such goods without notice.

and whoever delivers to a Railway officer any such goods for the purpose of being carried upon a Railway, without distinctly marking their nature on the outside of the package containing the same,

or otherwise giving notice in writing of the nature thereof to such officer,

shall be liable to a fine not exceeding two hundred rupees for every such offence.

For obstructing Railway officer in his duty.

33. Whoever wilfully obstructs or impedes any Railway officer in the discharge of his duty on a Railway, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

For injuring carriage, &c.

34. Whoever unlawfully and wilfully removes or defaces the number-plates, or removes or extinguishes any lamp on any Railway carriage, or wilfully or negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence, or any other thing belonging to a Railway Company or in the case of a Railway belonging to or worked by Government) to Government, shall be liable to a fine not exceeding fifty rupees.

For trespass.

35. Whoever trespasses upon a Railway shall be liable to a fine not exceeding twenty rupees;

For refusing to leave on request.

and if any person so trespassing refuse to leave such Railway on being requested to do so by any Railway officer, or by any other person on behalf of the Railway Company or the officer controlling a Railway worked by Government, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway by such officer or other person as aforesaid.

For cattle-trespass within Railway fences.

36. The owner or person in charge of any cattle trespassing or straying on any Railway provided with fences suitable for the exclusion of cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

For wilfully driving cattle on fenced Railway.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall on conviction before a Magistrate be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the said Act.

All fines imposed under this section may be recovered in manner provided by section 25 of the said Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

Amendment of Act I of 1871, ss. 11 and 26.

The expression 'public road' in sections eleven and twenty-six of the said Act shall be deemed to include a Railway. And any Railway officer may exercise the powers of seizure provided by the said section eleven.

Explanation.—In this section the word 'cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

For opening or not properly shutting gates.

37. Whoever, when any engine or train approaching along a Railway is in sight, opens any gate which has been set up for the use or accommodation of any person by any Railway Company or by Government on either side of the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle, or other animal or thing across the Railway;

and whoever at any time omits to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge have passed through the same,

shall be liable to a fine not exceeding fifty rupees.

(*D.*) *As to Railway Officers and the Public.*

For wilful act or omission endangering passenger.

38. Whoever, whether a Railway officer or not, wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to endanger the safety of any person travelling or being upon any Railway, may be sentenced to transportation (or in the case of an European or American to penal servitude) for life or to imprisonment for any term not exceeding seven years.

For an act not wilful.

39. Whoever, whether a Railway officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway, shall, upon conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

Apprehension of Offenders.

Apprehension for offences punishable by fine.

40. If any person commit any offence hereby made punishable by fine, and the name and address of such person be unknown, or there be reason to believe that he will abscond, any Railway officer or any police-officer, or other person whom such Railway officer or police-officer may call to his aid, may, without any warrant or written authority, apprehend and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

Apprehension for offences against sections 13, 21, 22, 38 and 39.

41. Every person guilty of any offence mentioned in sections 13, 21, 22, 38 and 39 may be apprehended without any warrant or written authority by any Railway officer, or by any other person whom such officer may call to his aid, or by any police-officer empowered to arrest without a warrant;

and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace authorized to punish the offender or to commit him for trial.

Jurisdiction.

Jurisdiction of Magistrate, &c., to fine.

42. Any person, whether a European British subject or not, who is guilty of any offence for which, under this Act, he is liable to a fine only, shall be punishable

for such offence by any Magistrate, whether the offence has been committed within the local limits of his jurisdiction or not.

Jurisdiction of Justices to try Europeans for breach of general rules.

43. Any Justice of the Peace may try a European British subject for an offence under section thirteen and may on conviction award a sentence within the limits thereby prescribed for such offence.

Heads of District Police, &c., in Madras.

44. The heads of district police and amíns of police in the Presidency of Fort Saint George may punish, to the extent of their jurisdiction in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

CHAPTER V.

MISCELLANEOUS.

Power of Government to make rules as to fences, gates and bars.

45. The Governor General in Council, or the Local Government with the sanction of the Governor General in Council, may, from time to time, make rules for providing

(*a*) boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connexion therewith,

(*b*) gates or bars at places where any Railway crosses a road on the level, and

(*c*) persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section thirty-six, be deemed to be suitable for the exclusion of cattle.

Power to declare Local Government in respect of any Railway.

46. The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what Government or other authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

SCHEDULE.

ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XXII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XIV of 1871 ...	An Act to amend the Railway Act.

STATEMENT OF OBJECTS AND REASONS.

Doubts having arisen as to whether certain sections of the Railway Act (XVIII of 1854) applied to lines under construction or not opened for public conveyance of passengers and goods, the present Bill has been prepared with the primary object of removing these doubts.

At the same time the opportunity has been taken to consolidate four out of the five Acts in which the Railway law of India is now contained, and to make the following amendments therein:

Companies will not be answerable for loss or injury to luggage unless it has been, not only booked and paid for, but made over to the charge of a Railway officer.

The following articles (namely), cloths and tissue of which gold or silver forms part, telegraph stamps, lithographs, photographs, carvings, sculpture, opium, ivory, ebony, sandalwood, and musical instruments, have been added to the list of articles, for losing or injuring which Companies will not be liable except in case of special engagement.

The clause as to receiving bribes has been made to apply, not only to Railway officers, but also to every other person employed by or on behalf of a Railway Company to do any act upon the Railway.

The fines for giving false account of the goods carried, or to be carried on a Railway, have been raised respectively from Rs. 50 and Rs. 20 to Rs 100 and Rs. 50.

SIMLA,
The 2nd September 1876. } A. CLARKE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 12 of 1876.

THE STRAITS SETTLEMENTS EMIGRATION BILL, 1876.

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

A Bill to regulate the Emigration of Native Labourers from the Presidency of Fort Saint George to the Straits Settlements.

Preamble.

Whereas it is expedient to regulate emigration from the Presidency of Fort Saint George to the Straits Settlements; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Straits Settlements Emigration Act, 1876:"

Local extent.

This section and section two extend to the whole of British India: the rest of this Act extends only to the territories under the government of the Governor of Fort Saint George in Council;

Commencement.

And it shall come into force on such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the *Fort Saint George Gazette*, direct.

Act XIV of 1872, repealed.

2. On and from such date Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act*, 1871) shall be repealed, but not so as to revive any right to sue or ground of proceeding taken away by the said Act.

The provisions of Act No. VII of 1871 (*to consolidate the laws relating to the emigration of Native Labourers*) shall not apply to emigration to the Straits Settlements from the said territories, or to any contract for labour to be performed in the Straits Settlements by an emigrant from the said territories.

Act VII of 1871 not to apply to emigration from Madras to the Straits Settlements.

Interpretation-clause.

3. In this Act—

"Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements:

"Emigrate."

"Emigrant" means a person who "emigrates" within the meaning of the above definition:

"Emigrant."

"Magistrate" means a Magistrate of a District, a Magistrate of a division of a District, or any person appointed by the Local Government to perform the functions of a Magistrate under this Act:

"Magistrate."

"Vessel" includes anything made for the conveyance by water of human beings or property.

"Vessel."

4. It shall not be lawful to emigrate except from the Port of Negapatam, or from such other port as may from time to time be declared by the Local Government, by a notification in the *Fort Saint George Gazette*, to be a port from which emigration under this Act shall be lawful.

From what port emigration lawful.

While any such notification is in force, all the provisions of this Act shall apply to the port mentioned in such notification in like manner as they apply to the Port of Negapatam.

The Local Government may, at any time, by a like notification, revoke any such notification.

II.—Emigration Agent.

5. The Government of the Straits Settlements may, from time to time, appoint such person as the Local Government approves, to act as Emigration Agent at the Port of Negapatam, or such other port as aforesaid.

Appointment of Emigration Agent.

The Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

III.—Protector of Emigrants.

6. The Local Government shall direct the Magistrate of the division of the District in which the Town of Negapatam is situated, or such other Magistrate in Negapatam as it thinks fit, to act as Protector of Emigrants under this Act; and may, with the sanction of the Governor General in Council, assign to such Magistrate such establishment as it thinks fit.

Appointment of Protector of Emigrants.

7. Such Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

General duties of Protector.

He shall also inspect on arrival all vessels bringing return emigrants to Negapatam, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Local Government.

Inspection of vessels with return emigrants.

He shall aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

IV.—Emigration Depôt.

8. The Emigration Agent shall establish a suitable depôt for emigrants at Negapatam and at any such other port as aforesaid. Such depôt may be licensed by the Protector of Emigrants after being inspected and approved of by him.

Establishment and licensing of depôt.

No such license shall be in force for a longer period than a year; and any such license may be cancelled by the Protector of Emigrants, if he considers that the depôt for which it was granted is unhealthy, or in any respect has become unsuitable for the purpose for which it was established, or if the Emigration Agent fails to comply with any of the requirements of this Act.

Duration of license.

For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

Fee for license.

9. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Inspection by Protector.

The Emigration Agent and all persons in charge of, or employed in, the depôt shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information as he may require.

Agent and his subordinates to afford facilities for inspection.

10. The Emigration Agent shall provide at the depôt such medical aid and comforts as the said Protector may from time to time direct.

Supply of medical aid and comforts.

V.—Recruiters of Labourers.

11. The Protector of Emigrants shall license so many fit persons, as he deems necessary, to be recruiters of labourers for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from the Protector of Emigrants.

Protector to license recruiters.

12. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Duration and cancelment of license.

13. Every such license shall specify the local limits within which the person licensed may recruit labourers, and shall be in the form set forth in the first Schedule hereto annexed.

Form of license.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

Fee for license.

14. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

Recruiter to obtain Magistrate's countersignature to license.

VI.—Contracts with Emigrants.

15. A contract made by a recruiter with a Native of India to emigrate shall not be enforceable by the recruiter or his principal unless it—

Conditions of validity of emigration contracts.

(*a*) is expressed in writing;

(*b*) purports to be executed by the recruiter on behalf of some principal in the Straits Settlements;

(*c*) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;

(*d*) is registered in the manner provided in section nineteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

16. Every such contract shall—

Contents of such contracts.

(*a*) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and

(*b*) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

17. Save as provided by section fifteen, clause (*c*), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Certain agreements declared void.

Every contract not containing the particulars required by section sixteen shall be illegal and void.

18. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the District, or such other Medical Officer as the Local Government appoints in this behalf, or in default of such appointment, before such Medical Officer as the Magistrate directs.

Medical examination of intending emigrants.

The Medical Officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the Medical Officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the Medical Officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Dependents.

Certificates shall be in the form set forth in the second Schedule hereto annexed; and the recruiter shall pay to the Medical Officer such fee for each person so examined as the Local Government may from time to time prescribe.

Form of Certificates.

19. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

Emigrant to appear before Magistrate,

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

and be examined.

If it appears on such examination that the recruit understands the nature of the contract he has entered into as regards the particulars specified in section sixteen, and that he is willing to fulfil the same, the Magistrate shall register

(*a*) the name, the father's name and the age of such recruit:

(*b*) the name of the village or place in which he resides:

(*c*) the port of embarkation to which it is intended he shall proceed:

(*d*) the particulars specified in section sixteen.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of his contract, or has been induced to enter into it by fraud or misrepresentation, he shall refuse to register him, and record his reasons for such refusal.

Registration when to be refused

20. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

Examination of dependents.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

21. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections nineteen and twenty.

Copies of registered matters.

22. A copy of every entry made in the registry book by a Magistrate shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

Copy of entry in register to be sent to Emigration Agent and Protector.

23. Registration under section nineteen and section twenty of emigrants recruited in the division of the district in which the town of Negapatam is situated, and of persons dependent on such emigrants, shall be effected before the Protector of Emigrants in the manner hereinbefore prescribed for registration before a Magistrate; and such Protector shall deliver one copy of the contract to the emigrant and another copy of the contract to the Emigration Agent.

Registration at Negapatam.

24. For the registration of every contract under section nineteen, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee as may be from time to time directed by the Local Government, not exceeding one rupee.

Fee for registration.

VII.—Arrival at Depôt and Procedure thereon.

25. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Arrival at depôt to be reported.

26. The Emigration Agent shall, within forty-eight hours after the arrival of each emigrant at the depôt, question such emigrant as to the mode of his recruitment, and shall at the same time examine the copy of the contract furnished to the emigrant under section twenty-three.

Duty of Emigration Agent on arrival of emigrants.

If, for any reason, further inquiry is necessary, he shall make such enquiry forthwith.

27. The Protector of Emigrants shall attend personally at the examination of emigrants by the Emigration Agent under section twenty-six, except in the case of emigrants recruited in the division of the district in which the town of Negapatam is situated, and shall see that the Emigration Agent makes all such enquiries of the emigrants as it may be his duty to make.

Duty of Protector.

28. If in the opinion of the Protector of Emigrants the examination and enquiry made under section twenty-six disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration Agent shall countersign the emigrant's copy of the contract, and the Emigration Agent shall make out and deliver to the emigrant an embarkation pass signed by the Emigration Agent, and countersigned by the Protector, stating the name and the age of the emigrant and the name of his father, and certifying that he has been duly registered for emigration to the Straits Settlements.

Countersignature of contract.

Grant of embarkation pass.

29. If the Protector of Emigrants considers that any emigrant, not being an emigrant recruited in the division of the district in which the town of Negapatam is situated, is physically unfit to emigrate, and that he has not dishonestly represented himself as physically fit;

or that any such irregularity has occurred in the recruitment of any such emigrant, as makes it just to vacate the contract;

or if the Emigration Agent refuses without the consent of the Protector to countersign the emigrant's copy of the contract as required by section twenty-eight, or to be bound by the contract;

the Protector of Emigrants may order the Emigration Agent, or the recruiter with whom the contract was made, forthwith to pay to him such reasonable sum as is necessary to enable such emigrant to return to the place where his contract was registered; and may take any steps he thinks necessary for the conveyance of such emigrant to such place.

When the emigrant to be sent back to the place of registration.

Payment of expenses of sending him back.

30. On failure of the Emigration Agent or of such recruiter for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to, or on behalf of, the emigrant.

Every sum so paid shall be recoverable by the Protector, with six per cent. per annum interest from the date of payment, from the Emigration Agent, or from such recruiter, as money paid to the use of such Emigration Agent or recruiter.

No further proof shall be required by any Court in any such case than that the Protector gave such Emigration Agent or recruiter an order to pay such money, and that the Emigration Agent or recruiter for a space of twenty-four hours made default in complying therewith.

Failure of Emigration Agent, &c., to pay such expenses.

31. Every emigrant as aforesaid who, from his state of health, is, in the opinion of the Protector, unfit to undertake the journey back to the place where his contract was registered, shall, in addition to being conveyed back at the expense of the Emigration Agent or recruiter, be entitled to continue in the depôt, and to be fed, clothed, lodged and attended to there by and at the expense of the Emigration Agent until such time as the Protector otherwise orders.

Emigrant unfit from illness to return to the place of registration.

32. In every case in which the Emigration Agent refuses, without the consent of the Protector, to countersign, or be bound by a contract registered under section nineteen, or is chargeable with a breach of any duty which such contract expressly or by implication imposes upon him, the Protector may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of damages for the breach of such contract.

Suits against Emigration Agent for breach of contract.

In every such suit the contract entered into by the recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

VIII.—Emigrant Vessels.

33. No Master or other person in charge of a vessel shall receive on board such vessel any emigrant unless such vessel has been licensed, under the law for the time being in force relating to the carriage by sea of Native passengers, to carry passengers from the territories under the Government of Fort Saint George to the Straits of Malacca, and unless the Master of such vessel has obtained a certificate from the Protector of Emigrants authorizing him to receive on board the number of emigrants specified therein.

Emigrants not to be received on board vessels other than those licensed under Native Passengers Act,

or without certificate from Protector.

No such certificate shall be granted by the Protector of Emigrants unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.

34. On embarkation every emigrant shall deliver to the Master of the vessel the embarkation pass granted to him under section twenty-eight, and the Master shall not receive any emigrant on board unless he delivers up such pass.

Emigrant to give his pass to Master.

35. The Emigration Agent shall be personally present at the embarkation of all emigrants, and shall see that the Master duly examines the passes of the emigrants, and shall himself also examine such passes.

Emigration Agent to be present at embarkation.

The Emigration Agent shall not permit any emigrant to remain on board who has not a pass.

36. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the Emigration Agent a list signed by himself of all emigrants on board, and shall retain a counterpart of such list signed by the Emigration Agent.

Master to deliver list of emigrants.

A copy of such list signed by the Emigration Agent and Master shall be sent to the Protector of Emigrants before the vessel sails.

IX.—Supplementary Powers.

37. Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration to the said Settlements shall cease from a day to be specified in such notification.

Power to prohibit emigration to the Straits Settlements.

When any notification has been published under this section, emigration and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.

38. Such notification may be revoked in like manner at the discretion of the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

Revocation of prohibition.

From the day so specified all the provisions of this Act authorizing emigration to the said Settlements shall be revived, and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.

X.—Offences.

39. Whoever, except under and in conformity with the provisions of this Act, engages or attempts to engage any Native of India to emigrate,

or whoever engages or attempts to engage any Native of India to enter into any such contract as is hereby declared illegal,

or, not being a recruiter duly licensed under this Act, acts or is employed as a recruiter of labourers,

or being a duly licensed recruiter, removes or attempts to remove any emigrant whom he engages in any district from such district without the contract with such emigrant having been duly registered under section nineteen,

shall be punished with imprisonment, which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Making unlawful contract of labour.

Recruiting without being licensed.

Recruiter omitting to take engaged labourers before Magistrate or Protector.

40. Whoever, by means of intoxication, violence, fraud, or false pretences, causes or induces or attempts to cause or induce any Native of India to emigrate or to enter into any contract to emigrate, or into any such contract as is hereby declared illegal, or to proceed to the said Settlements without having entered into any contract, shall be punished with imprisonment, which may extend to three years, or with fine or with both.

Use of force, fraud, &c., to cause a Native to emigrate.

41. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure labourers to proceed to the said Settlements, or falsely represents that such labourers are required by the Government, or are to be engaged on behalf of the Government, shall be liable to a fine not exceeding five hundred rupees.

False representation of Government authority.

42. Any Master of a vessel not licensed as provided in section thirty-three who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

and any Master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a period not exceeding three months, and also to a fine not exceeding two hundred rupees, and the vessel shall be liable to be forfeited.

Receiving emigrants on board without license or certificate.

43. Any Master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections thirty-four and thirty-six, shall be liable to a fine not exceeding two hundred rupees.

Failure to comply with requirements of sections 34 and 36.

44. Any Master of a vessel who having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section thirty-six, shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.

Taking on board, after clearance, emigrants not entered in list.

45. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

46. All prosecutions under this Act shall be instituted by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Prosecutions under this Act by whom to be instituted.

XI.—MISCELLANEOUS.

47. Nothing in this Act shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act not to apply to certain vessels,

48. Nothing in this Act shall apply to any contract with, or the emigration of, any Native seaman, or other person who of his own free will contracts to navigate or serve on board of any vessel, or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

or to contracts with Native seamen and menial servants.

49. The Emigration Agent and all persons employed by him and the Protector of Emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.

Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

THE FIRST SCHEDULE.

(*See section* 13.)

Office of the Protector of Emigrants at the Port of Negapatam.

A. B. described in the Roll annexed is hereby licensed under the Straits Settlements Emigration Act, 1876, to be a recruiter of labourers.

[*Here set out the local limits within which the recruiter is licensed to act.*]

This license will be in force for only from this date, unless previously cancelled.

(Sd.) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Colour.	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village and district to which he belongs.

THE SECOND SCHEDULE.

(*See section* 18.)

I hereby certify that I have this day examined *A. B.*, and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to the Straits Settlements [and to work there*].

(Sd.) *C. D.*,
(*Here add designation of examining officer.*)

* These words to be omitted in case of women and children not engaging for labour.

STATEMENT OF OBJECTS AND REASONS.

The circumstances which make special legislation necessary to regulate emigration from the Madras Presidency to the Straits Settlements were fully explained in Council on the 6th June 1872, when leave was asked to introduce the Bill which passed as Act XIV of 1872. The Bill then introduced was intended merely to make temporary provision for a pressing emergency, and it was stated that a further measure to make permanent provision, in all requisite detail, for emigration to the Straits was then under preparation in communication with the Colonial Government and would afterwards be introduced. Some time, as might have been expected, has passed in arranging with the Government of the Straits the details of the present Bill and of the corresponding Ordinance intended to be passed by the Straits Legislative Council.

2. The law of the Straits Settlements has either been, or will soon be, placed on a permanent footing, and it is desirable that no further delay should take place in carrying out the legislation requisite here.

3. The present Bill, it will be seen, is based on the Indian Emigration Act, 1871. It differs from that Act, however, in two important respects. In the first place, the provisions it contains regarding the conveyance of emigrants to the depôt, the equipment of emigrant vessels, the embarkation of the emigrants, &c., are of a less detailed and stringent nature than the corresponding provisions of the Act of 1871. As was observed in the discussions which led to the passing of Act XIV of 1872, it would be absurd to hamper emigration to a Colony which may be reached in eight or ten days with regulations designed for a voyage like that to the West Indies.

4. The other point in which the present Bill differs from the Act of 1871 (and on this point it is more stringent than the Act of 1871) is in regard to contracts between recruiters and emigrants. The conditions of emigration from Madras to the Straits Settlements are somewhat different from those which prevail in other Colonies drawing their supplies of labour from India. The law in these other Colonies places upon the Government the responsibility for the fulfilment of the conditions under which the emigrant leaves his home; the immigrants are received by Government Agents on their arrival, and allotted to employers by these Agents; contracts are made on their behalf by Government, and Government undertakes to provide them with a free passage to India on the completion of their term of service, or sooner if they become disabled.

5. In the Straits Settlements, on the other hand, the contract has hitherto been confined to the emigrant and the individual employer; and the function of Government has been merely to watch over its due fulfilment by both parties. It is still intended that contracts shall be made in the first instance between emigrants and individual employers; and therefore it becomes specially necessary in the case of an emigrant to the Straits to make sure that the contract entered into by him before he leaves India distinctly provides for those points on which the Government of India is in the habit of insisting as essential. Hence the additional rules regarding the form and contents of contracts laid down in sections fifteen and sixteen of the present Bill.

6. It is however desired by the Government of India that the Government of the Straits Settlements shall guarantee to emigrants the performance of certain important conditions of their contracts, if the employers fail to perform them. It is also thought expedient to declare expressly that contracts made in Madras by Natives for repayment of money in the Straits Settlements, in consideration of assistance to leave India, shall be void except for the purpose of redeeming their contracts to work.

7. It will be observed that the present Bill proposes to repeal Act XIV of 1872, and thereby, so far as regards all India except Madras, to remit the Straits Settlements to the position they were in before the passing of that Act. That is to say, as regards all India except the Madras Presidency, emigration to the Straits Settlements will not be lawful, and cannot be made lawful except under the provisions of the Emigration Act of 1871. The reason for this state of things will be found stated in the proceedings of Council before referred to. The peculiarities of the labour traffic between Madras and the Straits Settlements are its long duration, the existence of a large Tamil population in the Straits, and the proximity of the two countries. These circumstances do not affect any part of India except Madras.

SIMLA;
The 10th September 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 30, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in five months :—

No. 11 of 1876.

THE INDIAN RAILWAY BILL, 1876.

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46. Power to declare Local Government in respect of any Railway.

SCHEDULE.

A Bill to consolidate and amend the Law relating to Railways in India.

Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Railway Act, 1876:"

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty:

Local extent.

And it shall come into force on the first day of March 1877.

Commencement.

2. On and from that day, the Acts specified in the schedule hereto annexed shall be repealed.

Repeal of Acts.

All rules made, notifications published, and powers conferred under any of such Acts shall be deemed to have been respectively made, published and conferred under this Act.

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

Interpretation-clause.

'Railway.' "Railway" includes—

(a) railways belonging to and worked by Companies:

(b) railways belonging to Government but worked by Companies:

(c) railways worked by Government:

(d) land within the fences or other boundary-marks prescribed under section forty-five:

(e) all lines of rail, sidings or branches, worked over for the purposes of, or in connexion with, a railway:

(f) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connexion with, a railway:

And in the following sections (namely) 11, 13, 18, 21, 22, 26, 27 and 32 to 39 (both inclusive), "Railway" includes a railway under construction or not used for the public conveyance of passengers or goods.

'Railway officer.' "Railway officer" means any person employed by a Railway Company or the Government to perform any function in connection with a Railway.

'Passenger.' "Passenger" means a passenger by Railway.

'Magistrate.' "Magistrate" means any person lawfully exercising the powers of a Magistrate and includes a Presidency Magistrate.

'Fine.' "Fine" includes a sum of money due upon a forfeited recognizance.

4. Every Railway used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

All opened Railways presumed within the Act.

and every Company to or by whom any such Railway belongs or is worked shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

CHAPTER II.

RULES RELATING TO RAILWAY COMPANIES.

5. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss or injury to any

No liability for unbooked luggage.

passenger's luggage, unless it has been booked and separately paid for and made over to the charge of a Railway officer.

6. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss of or injury to any of the following articles (namely),—

No liability for loss of gold, silver, &c., unless in case of special engagement.

(a) gold or silver, coined or uncoined, manufactured or unmanufactured,

(b) plated articles,

(c) cloths and tissue of which gold and silver form part,

(d) precious stones, jewellery, trinkets,

(e) watches, clocks, or time-pieces of any description,

(f) Government securities,

(g) Government stamp-paper, postage stamps, telegraph stamps,

(h) bills of exchange, promissory notes, bank-notes, orders, or other securities for payment of money,

(i) maps, writings, title-deeds,

(j) paintings, engravings, lithographs, photographs, carvings, sculpture,

(k) glass, china,

(l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials,

(m) shawls,

(n) lace,

(o) opium,

(p) ivory, ebony, sandalwood,

(q) musical instruments,

contained in any parcel or package delivered to such Company or the Government, either to be carried on a Railway for hire or to accompany the person of any passenger, unless the value and nature of such articles have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same has been accepted by some person specially authorized to enter into such engagements on behalf of the Company or Government.

7. The liability of a Railway Company, or (in the case of a Railway worked by Government) of the Government, for loss of or injury to any articles or goods to be carried by Railway other than those specially provided for by this Act shall not be limited or otherwise affected by any public notice given, or any private contract made, by the Company or the Government;

Public notice or private contract not to limit liability.

but the Company, or (in the case of a Railway worked by Government) the Government, shall be answerable for such loss or injury when it has been caused by gross negligence or misconduct on the part of their agents or servants.

8. If any person fail to pay on demand any sum due for conveyance of any goods by Railway, the Company, or (in the case of a Railway worked by Government) the Government, may detain all or any part of such goods, or,

Lien for money due for carriage of goods.

if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Company or Government;

and may also sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may out of the proceeds of the sale, retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as remain unsold, to the person entitled thereto.

9. The owner or person having the care of any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods.

Written account of goods to be given on demand.

10. Any Railway officer may refuse to carry upon a Railway any luggage or parcel which he suspects to contain goods of a dangerous nature, and may require the same to be opened to ascertain the fact previously to carrying the same;

Carriage of goods of a dangerous nature.

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

11. Every Railway Company, and every officer controlling a Railway worked by Government, shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company or so worked by Government of any accident attended with serious personal injury, give notice thereof to the Local Government.

Accident to be reported.

12. The Local Government may direct any Railway Company or any officer controlling a Railway worked by Government to make up and deliver to the Local Government a return of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, or so worked by Government whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

Returns of accidents in course of traffic.

13. Every Railway Company, and every officer controlling a Railway worked by Government, may respectively from time to time, with the previous sanction of the Governor General in Council, make general rules for the use, working and general administration of the Railway belonging to such Company or so worked by Government.

Power to make rules for working Railway.

All such rules shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway officers and the public in such manner as the Governor General in Council, from time to time, directs.

Publication of rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding fifty rupees, or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

Penalty for breach of rules.

The Governor General in Council may at any time cancel any rule so sanctioned.

Power to cancel rules.

14. A copy of this Act, and of the General Rules, Time-tables, and Tariff of charges, which may from time to time be published for any Railway by any Railway Company with the sanction of the Local Government, or (in the case of a Railway worked by Government) by the officer controlling the same, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

Copy and translation of Act, &c., to be shown at stations.

All such documents shall be so exhibited in English and in the Vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

CHAPTER III.

RULES RELATING TO PASSENGERS.

15. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the place from and place to which the fare has been paid, and shall, when required, show his ticket to any Railway officer duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway officer duly authorized to collect tickets.

Passengers on payment of fares to be furnished with tickets.

Tickets to be shown and given up on demand.

16. At the intermediate stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

Fares and tickets at intermediate stations.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Preferential right to tickets.

Proviso.

Provided that all officers and troops of Her Majesty, on duty, and all other persons on the business of the Government, who by virtue of any contract with the Government are entitled to be conveyed on a Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

17. No person shall enter any carriage used on any Railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket.

Fares to be prepaid.

18. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which, in the judgment of any Railway officer, is or are of a dangerous nature.

Passengers not to carry dangerous goods.

CHAPTER IV.

PENALTIES.

(A.) As to Companies.

19. Any Railway Company or officer controlling a Railway worked by Government omitting to give notice as required by section eleven, shall forfeit the sum of fifty rupees for every day during which such omission continues.

For omitting to report accident.

20. Any Railway Company or officer controlling a Railway worked by Government failing to deliver any return mentioned in section twelve, within fourteen days after the same has been required, shall forfeit the sum of fifty rupees for every day during which such failure continues.

For not sending return of accidents.

(B.) As to Railway Officers.

21. Any Railway officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

For drunkenness or breach of duty.

or who negligently omits to perform his duty,

or who performs the same in an improper manner,

shall be liable to a fine not exceeding fifty rupees;

and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

22. If any Railway officer endangers the safety of any person—

For endangering the safety of person.

(*a*) by disobeying any general rule sanctioned and notified in the manner prescribed by section thirteen, or

(*b*) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be liable to imprisonment for any term not exceeding three years, or to fine not exceeding five hundred rupees, or to both.

23. Every Railway officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, and every person employed either permanently or temporarily in connection with a Tramway shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

For receiving bribes.

In the definition of legal remuneration contained in the said section 161 the word "Government" shall, for the purposes of this section, be deemed to include—

Amendment of Penal Code, section 161.

(*a*) a Railway Company,

(*b*) the proprietors for the time being of a Tramway, and

(*c*) the lessees, representatives and assigns of such Company or proprietors.

(C.) As to the Public.

24. Any passenger not producing or delivering up his ticket when so required by a Railway officer authorized to require such production or delivery, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

For not producing or delivering ticket.

25. Any person who defrauds, or attempts to defraud any Railway Company or the Government

For evading payment of proper fare.

(*a*) by travelling, or attempting to travel, upon any Railway, without having previously paid his fare; or

(*b*) by riding in or upon a carriage of a higher class than that for which he has paid his fare; or

(*c*) by continuing his journey in or upon any Railway carriage beyond the place for which he has paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof;

or who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage;

or who, in any other manner whatever, attempts to evade the payment of his fare,

shall be liable to a fine not exceeding fifty rupees for each offence.

26. Any passenger, who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage is in motion;

For entering carriage in motion.

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers,

For riding on the steps.

shall be liable to a fine not exceeding twenty rupees for each offence.

27. Any person other than the engine-man, fire-man, and assistant fireman, who, without the special license of the Superintendent of Locomotives, rides or attempts to ride upon any locomotive engine or tender upon any Railway;

For riding on engine, tender, or luggage-van.

and any person other than the guard or brakesman, who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

28. Whoever smokes, either in a Railway station, or in or upon any Railway carriage, except in places or carriages specially provided for the purpose, shall be liable to a fine not exceeding twenty rupees for each offence;

For smoking.

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway officer, may, in addition to incurring the liability abovementioned, be removed by any Railway officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

29. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway carriage, or upon any part of any Railway;

For intoxication or nuisance.

or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be liable to a fine not exceeding twenty rupees; and in addition to such liability, the offender may be removed by any Railway officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

30. If any special carriage, or portion of a carriage, or any private room or apartment, be provided by any Railway Company or by Government for the exclusive use of females, any male person, who, without lawful excuse, enters such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or remains therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees,

For entering private room or carriage.

and may be removed therefrom, and also from the premises of the Railway, by any Railway officer,

and shall forfeit his fare.

31. Any owner or person referred to in section nine, who wilfully fails to give on demand to any Railway officer appointed as therein mentioned an exact account of the number or quantity and description of the goods therein referred to,

For false account.

or who wilfully gives to such Railway officer a false account thereof,

shall, for every such offence, be liable to a fine not exceeding one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and to a fine not exceeding fifty rupees for any quantity of such goods less than a ton or for any parcel less than one hundredweight.

32. Whoever carries upon a Railway any dangerous goods,

For carrying goods of a dangerous nature.

and whoever delivers to a Railway officer any such goods for the purpose of being carried upon a Railway, without distinctly marking their nature on the outside of the package containing the same,

For delivering such goods without notice.

or otherwise giving notice in writing of the nature thereof to such officer,

shall be liable to a fine not exceeding two hundred rupees for every such offence.

33. Whoever wilfully obstructs or impedes any Railway officer in the discharge of his duty on a Railway, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

For obstructing Railway officer in his duty.

34. Whoever unlawfully and wilfully removes or defaces the number-plates, or removes or extinguishes any lamp on any Railway carriage, or wilfully or negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence, or any other thing belonging to a Railway Company or (in the case of a Railway belonging to or worked by Government) to Government, shall be liable to a fine not exceeding fifty rupees.

For injuring carriage, &c.

35. Whoever trespasses upon a Railway shall be liable to a fine not exceeding twenty rupees;

For trespass.

and if any person so trespassing refuse to leave such Railway on being requested to do so by any Railway officer, or by any other person on behalf of the Railway Company or the officer controlling a Railway worked by Government, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway by such officer or other person as aforesaid.

For refusing to leave on request.

36. The owner or person in charge of any cattle trespassing or straying on any Railway provided with fences suitable for the exclusion of cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

For cattle-trespass within Railway fences.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall on conviction before a Magistrate be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the said Act.

For wilfully driving cattle on fenced Railway.

All fines imposed under this section may be recovered in manner provided by section 25 of the said Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

The expression 'public road' in sections eleven and twenty-six of the said Act shall be deemed to include a Railway. And any Railway officer may exercise the powers of seizure provided by the said section eleven.

Amendment of Act I of 1871, ss. 11 and 26.

Explanation.—In this section the word 'cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

37. Whoever, when any engine or train approaching along a Railway is in sight, opens any gate which has been set up for the use or accommodation of any person by any Railway Company or by Government on either side of the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle, or other animal or thing across the Railway;

For opening or not properly shutting gates.

and whoever at any time omits to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge have passed through the same,

shall be liable to a fine not exceeding fifty rupees.

(D.) As to Railway Officers and the Public.

38. Whoever, whether a Railway officer or not, wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to endanger the safety of any person travelling or being upon any Railway may be sentenced to transportation (or in the case of an European or American to penal servitude) for life or to imprisonment for any term not exceeding seven years.

For wilful act or omission endangering passenger.

39. Whoever, whether a Railway officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway, shall, upon conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

For an act not wilful.

Apprehension of Offenders.

40. If any person commit any offence hereby made punishable by fine, and the name and address of such person are unknown, or there be reason to believe that he will abscond, any Railway officer or any police-officer, or other person whom such Railway officer or police-officer may call to his aid, may, without any warrant or written authority, apprehend and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

Apprehension for offences punishable by fine.

41. Every person guilty of any offence mentioned in sections 13, 21, 22, 38 and 39 may be apprehended without any warrant or written authority by any Railway officer, or by any other person whom such officer may call to his aid, or by any police-officer empowered to arrest without a warrant;

Apprehension for offences against sections 13, 21, 22, 38 and 39.

and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace authorized to punish the offender or to commit him for trial.

Jurisdiction.

42. Any person, whether a European British subject or not, who is guilty of any offence for which, under this Act, he is liable to a fine only, shall be punishable

Jurisdiction of Magistrate, &c., to fine.

for such offence by any Magistrate, whether the offence has been committed within the local limits of his jurisdiction or not.

43. Any Justice of the Peace may try a European British subject for an offence under section thirteen and may on conviction award a sentence within the limits thereby prescribed for such offence.

Jurisdiction of Justices to try Europeans for breach of general rules.

44. The heads of district police and amíns of police in the Presidency of Fort Saint George may punish, to the extent of their jurisdiction in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

Heads of District Police, &c., in Madras.

CHAPTER V.

MISCELLANEOUS.

45. The Governor General in Council, or the Local Government with the sanction of the Governor General in Council, may, from time to time, make rules for providing

Power of Government to make rules as to fences, gates and bars.

(*a*) boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connexion therewith,

(*b*) gates or bars at places where any Railway crosses a road on the level, and

(*c*) persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section thirty-six, be deemed to be suitable for the exclusion of cattle.

46. The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what Government or other authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

Power to declare Local Government in respect of any Railway.

SCHEDULE.

ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

STATEMENT OF OBJECTS AND REASONS.

Doubts having arisen as to whether certain sections of the Railway Act (XVIII of 1854) applied to lines under construction or not opened for public conveyance of passengers and goods, the present Bill has been prepared with the primary object of removing these doubts.

At the same time the opportunity has been taken to consolidate four out of the five Acts in which the Railway law of India is now contained, and to make the following amendments therein:

Companies will not be answerable for loss or injury to luggage unless it has been, not only booked and paid for, but made over to the charge of a Railway officer.

The following articles (namely), cloths and tissue of which gold or silver forms part, telegraph stamps, lithographs, photographs, carvings, sculpture, opium, ivory, ebony, sandalwood, and musical instruments, have been added to the list of articles, for losing or injuring which Companies will not be liable except in case of special engagement.

The clause as to receiving bribes has been made to apply, not only to Railway officers, but also to every other person employed by or on behalf of a Railway Company to do any act upon the Railway.

The fines for giving false account of the goods carried, or to be carried on a Railway, have been raised respectively from Rs. 50 and Rs. 20 to Rs. 100 and Rs. 50.

SIMLA,
The 2nd September 1876. } A. CLARKE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 12 of 1876.

THE STRAITS SETTLEMENTS EMIGRATION BILL, 1876.

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

A Bill to regulate the Emigration of Native Labourers from the Presidency of Fort Saint George to the Straits Settlements.

Preamble.

Whereas it is expedient to regulate emigration from the Presidency of Fort Saint George to the Straits Settlements; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Straits Settlements Emigration Act, 1876:"

Local extent.

This section and section two extend to the whole of British India: the rest of this Act extends only to the territories under the government of the Governor of Fort Saint George in Council;

Commencement.

And it shall come into force on such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the *Fort Saint George Gazette*, direct.

Act XIV of 1872, repealed.

2. On and from such date Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act*, 1871) shall be repealed, but not so as to revive any right to sue or ground of proceeding taken away by the said Act.

Act VII of 1871 not to apply to emigration from Madras to the Straits Settlements.

The provisions of Act No. VII of 1871 (*to consolidate the laws relating to the emigration of Native Labourers*) shall not apply to emigration to the Straits Settlements from the said territories, or to any contract for labour to be performed in the Straits Settlements by an emigrant from the said territories.

Interpretation-clause.

3. In this Act—

"Emigrate." "Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements:

"Emigrant." "Emigrant" means a person who "emigrates" within the meaning of the above definition:

"Magistrate." "Magistrate" means a Magistrate of a District, a Magistrate of a division of a District, or any person appointed by the Local Government to perform the functions of a Magistrate under this Act:

"Vessel." "Vessel" includes anything made for the conveyance by water of human beings or property.

From what port emigration lawful.

4. It shall not be lawful to emigrate except from the Port of Negapatam, or from such other port as may from time to time be declared by the Local Government, by a notification in the *Fort Saint George Gazette*, to be a port from which emigration under this Act shall be lawful.

While any such notification is in force, all the provisions of this Act shall apply to the port mentioned in such notification in like manner as they apply to the Port of Negapatam.

The Local Government may, at any time, by a like notification, revoke any such notification.

II.—EMIGRATION AGENT.

Appointment of Emigration Agent.

5. The Government of the Straits Settlements may, from time to time, appoint such person as the Local Government approves, to act as Emigration Agent at the Port of Negapatam, or such other port as aforesaid.

The Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

III.—PROTECTOR OF EMIGRANTS.

Appointment of Protector of Emigrants.

6. The Local Government shall direct the Magistrate of the division of the District in which the Town of Negapatam is situated, or such other Magistrate in Negapatam as it thinks fit, to act as Protector of Emigrants under this Act; and may, with the sanction of the Governor General in Council, assign to such Magistrate such establishment as it thinks fit.

General duties of Protector.

7. Such Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

Inspection of vessels with return emigrants.

He shall also inspect on arrival all vessels bringing return emigrants to Negapatam, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Local Government.

He shall aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

IV.—EMIGRATION DEPÔT.

Establishment and licensing of depôt.

8. The Emigration Agent shall establish a suitable depôt for emigrants at Negapatam and at any such other port as aforesaid. Such depôt may be licensed by the Protector of Emigrants after being inspected and approved of by him.

Duration of license.

No such license shall be in force for a longer period than a year; and any such license may be cancelled by the Protector of Emigrants, if he considers that the depôt for which it was granted is unhealthy, or in any respect has become unsuitable for the purpose for which it was established, or if the Emigration Agent fails to comply with any of the requirements of this Act.

Fee for license.

For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

Inspection by Protector.

9. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Agent and his subordinates to afford facilities for inspection.

The Emigration Agent and all persons in charge of, or employed in, the depôt shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information as he may require.

Supply of medical aid and comforts.

10. The Emigration Agent shall provide at the depôt such medical aid and comforts as the said Protector may from time to time direct.

V.—RECRUITERS OF LABOURERS.

Protector to license recruiters.

11. The Protector of Emigrants shall license so many fit persons, as he deems necessary, to be recruiters of labourers for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from the Protector of Emigrants.

Duration and cancelment of license.

12. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

13. Every such license shall specify the local limits within which the person licensed may recruit labourers, and shall be in the form set forth in the first Schedule hereto annexed.

Form of license.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

Fee for license.

14. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

Recruiter to obtain Magistrate's countersignature to license.

VI.—CONTRACTS WITH EMIGRANTS.

15. A contract made by a recruiter with a Native of India to emigrate shall not be enforceable by the recruiter or his principal unless it—

Conditions of validity of emigration contracts.

(*a*) is expressed in writing;

(*b*) purports to be executed by the recruiter on behalf of some principal in the Straits Settlements;

(*c*) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;

(*d*) is registered in the manner provided in section nineteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

16. Every such contract shall—

Contents of such contracts.

(*a*) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and

(*b*) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

17. Save as provided by section fifteen, clause (*c*), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Certain agreements declared void.

Every contract not containing the particulars required by section sixteen shall be illegal and void.

18. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the District, or such other Medical Officer as the Local Government appoints in this behalf, or in default of such appointment, before such Medical Officer as the Magistrate directs.

Medical examination of intending emigrants.

The Medical Officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the Medical Officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the Medical Officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Dependents.

Certificates shall be in the form set forth in the second Schedule hereto annexed; and the recruiter shall pay to the Medical Officer such fee for each person so examined as the Local Government may from time to time prescribe.

Form of Certificates.

19. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

Emigrant to appear before Magistrate,

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

and be examined.

If it appears on such examination that the recruit understands the nature of the contract he has entered into as regards the particulars specified in section sixteen, and that he is willing to fulfil the same, the Magistrate shall register

(*a*) the name, the father's name and the age of such recruit;

(*b*) the name of the village or place in which he resides:

(*c*) the port of embarkation to which it is intended he shall proceed:

(*d*) the particulars specified in section sixteen.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of his contract, or has been induced to enter into it by fraud or misrepresentation, he shall refuse to register him, and record his reasons for such refusal.

Registration when to be refused.

20. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

Examination of dependents.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

21. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections nineteen and twenty.

Copies of registered matters.

22. A copy of every entry made in the registry book by a Magistrate shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

Copy of entry in register to be sent to Emigration Agent and Protector.

23. Registration under section nineteen and section twenty of emigrants recruited in the division of the district in which the town of Negapatam is situated, and of persons dependent on such emigrants, shall be effected before the Protector of Emigrants in the manner hereinbefore prescribed for registration before a Magistrate; and such Protector shall deliver one copy of the contract to the emigrant and another copy of the contract to the Emigration Agent.

Registration at Negapatam.

24. For the registration of every contract under section nineteen, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee as may be from time to time directed by the Local Government, not exceeding one rupee.

Fee for registration.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

25. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Arrival at depôt to be reported.

26. The Emigration Agent shall, within forty-eight hours after the arrival of each emigrant at the depôt, question such emigrant as to the mode of his recruitment, and shall at the same time examine the copy of the contract furnished to the emigrant under section twenty-three.

Duty of Emigration Agent on arrival of emigrants.

If, for any reason, further inquiry is necessary, he shall make such enquiry forthwith.

27. The Protector of Emigrants shall attend personally at the examination of emigrants by the Emigration Agent under section twenty-six, except in the case of emigrants recruited in the division of the district in which the town of Negapatam is situated, and shall see that the Emigration Agent makes all such enquiries of the emigrants as it may be his duty to make.

Duty of Protector.

28. If in the opinion of the Protector of Emigrants the examination and enquiry made under section twenty-six disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration Agent shall countersign the emigrant's copy of the contract, and the Emigration Agent shall make out and deliver to the emigrant an embarkation pass signed by the Emigration Agent, and countersigned by the Protector, stating the name and the age of the emigrant and the name of his father, and certifying that he has been duly registered for emigration to the Straits Settlements.

Countersignature of contract.

Grant of embarkation pass.

29. If the Protector of Emigrants considers that any emigrant, not being an emigrant recruited in the division of the district in which the town of Negapatam is situated, is physically unfit to emigrate, and that he has not dishonestly represented himself as physically fit;

When the emigrant to be sent back to the place of registration.

or that any such irregularity has occurred in the recruitment of any such emigrant, as makes it just to vacate the contract;

or if the Emigration Agent refuses without the consent of the Protector to countersign the emigrant's copy of the contract as required by section twenty-eight, or to be bound by the contract;

the Protector of Emigrants may order the Emigration Agent, or the recruiter with whom the contract was made, forthwith to pay to him such reasonable sum as is necessary to enable such emigrant to return to the place where his contract was registered; and may take any steps he thinks necessary for the conveyance of such emigrant to such place.

Payment of expenses of sending him back.

30. On failure of the Emigration Agent or of such recruiter for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to, or on behalf of, the emigrant.

Failure of Emigration Agent, &c., to pay such expenses.

Every sum so paid shall be recoverable by the Protector, with six per cent. per annum interest from the date of payment, from the Emigration Agent, or from such recruiter, as money paid to the use of such Emigration Agent or recruiter.

No further proof shall be required by any Court in any such case than that the Protector gave such Emigration Agent or recruiter an order to pay such money, and that the Emigration Agent or recruiter for a space of twenty-four hours made default in complying therewith.

31. Every emigrant as aforesaid who, from his state of health, is, in the opinion of the Protector, unfit to undertake the journey back to the place where his contract was registered, shall, in addition to being conveyed back at the expense of the Emigration Agent or recruiter, be entitled to continue in the depôt, and to be fed, clothed, lodged and attended to there by and at the expense of the Emigration Agent until such time as the Protector otherwise orders.

Emigrant unfit from illness to return to the place of registration.

32. In every case in which the Emigration Agent refuses, without the consent of the Protector, to countersign, or be bound by a contract registered under section nineteen, or is chargeable with a breach of any duty which such contract expressly or by implication imposes upon him, the Protector may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of damages for the breach of such contract.

Suits against Emigration Agent for breach of contract.

In every such suit the contract entered into by the recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

VIII.—EMIGRANT VESSELS.

33. No Master or other person in charge of a vessel shall receive on board such vessel any emigrant unless such vessel has been licensed, under the law for the time being in force relating to the carriage by sea of Native passengers, to carry passengers from the territories under the Government of Fort Saint George to the Straits of Malacca, and unless the Master of such vessel has obtained a certificate from the Protector of Emigrants authorizing him to receive on board the number of emigrants specified therein.

Emigrants not to be received on board vessels other than those licensed under Native Passengers Act, or without certificate from Protector.

No such certificate shall be granted by the Protector of Emigrants unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.

34. On embarkation every emigrant shall deliver to the Master of the vessel the embarkation pass granted to him under section twenty-eight, and the Master shall not receive any emigrant on board unless he delivers up such pass.

Emigrant to give his pass to Master.

35. The Emigration Agent shall be personally present at the embarkation of all emigrants, and shall see that the Master duly examines the passes of the emigrants, and shall himself also examine such passes.

Emigration Agent to be present at embarkation.

The Emigration Agent shall not permit any emigrant to remain on board who has not a pass.

36. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the Emigration Agent a list signed by himself of all emigrants on board, and shall retain a counterpart of such list signed by the Emigration Agent.

Master to deliver list of emigrants.

A copy of such list signed by the Emigration Agent and Master shall be sent to the Protector of Emigrants before the vessel sails.

IX.—SUPPLEMENTARY POWERS.

37. Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration to the said Settlements shall cease from a day to be specified in such notification.

Power to prohibit emigration to the Straits Settlements.

When any notification has been published under this section, emigration and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.

38. Such notification may be revoked in like manner at the discretion of the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

Revocation of prohibition.

From the day so specified all the provisions of this Act authorizing emigration to the said Settlements shall be revived, and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.

X.—OFFENCES.

39. Whoever, except under and in conformity with the provisions of this Act, engages or attempts to engage any Native of India to emigrate,

Making unlawful contract of labour.

or whoever engages or attempts to engage any Native of India to enter into any such contract as is hereby declared illegal,

or, not being a recruiter duly licensed under this Act, acts or is employed as a recruiter of labourers,

Recruiting without being licensed.

or being a duly licensed recruiter, removes or attempts to remove any emigrant whom he engages in any district from such district without the contract with such emigrant having been duly registered under section nineteen,

Recruiter omitting to take engaged labourers before Magistrate or Protector.

shall be punished with imprisonment, which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

40. Whoever, by means of intoxication, violence, fraud, or false pretences, causes or induces or attempts to cause or induce any Native of India to emigrate or to enter into any contract to emigrate, or into any such contract as is hereby declared illegal, or to proceed to the said Settlements without having entered into any contract, shall be punished with imprisonment, which may extend to three years, or with fine or with both.

Use of force, fraud, &c., to cause a Native to emigrate.

41. Whoever, without lawful authority, issues any written order, to the police to assist himself or any other person to procure labourers to proceed to the said Settlements, or falsely represents that such labourers are required by the Government, or are to be engaged on behalf of the Government, shall be liable to a fine not exceeding five hundred rupees.

False representation of Government authority.

42. Any Master of a vessel not licensed as provided in section thirty-three who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

Receiving emigrants on board without license or certificate.

and any Master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a period not exceeding three months, and also to a fine not exceeding two hundred rupees, and the vessel shall be liable to be forfeited.

43. Any Master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections thirty-four and thirty-six, shall be liable to a fine not exceeding two hundred rupees.

Failure to comply with requirements of sections 34 and 36.

44. Any Master of a vessel who having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section thirty-six, shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.

Taking on board, after clearance, emigrants not entered in list.

45. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

46. All prosecutions under this Act shall be instituted by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Prosecutions under this Act by whom to be instituted.

XI.—MISCELLANEOUS.

47. Nothing in this Act shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act not to apply to certain vessels,

48. Nothing in this Act shall apply to any contract with, or the emigration of, any Native seaman, or other person who of his own free will contracts to navigate or serve on board of any vessel, or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

or to contracts with Native seamen and menial servants.

49. The Emigration Agent and all persons employed by him and the Protector of Emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.

Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

THE FIRST SCHEDULE.

(*See section* 18.)

Office of the Protector of Emigrants at the Port of Negapatam.

A. B. **described in the Roll annexed is hereby licensed under the Straits Settlements Emigration Act, 1876, to be a recruiter of labourers.**

[***Here set out the local limits within which the recruiter is licensed to act.***]

This license will be in force for only from this date, unless previously cancelled.

(Sd.) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Colour.	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village and district to which he belongs.

THE SECOND SCHEDULE.

(*See section* 18.)

I hereby certify that I have this day examined *A. B.*, and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to the Straits Settlements [and to work there*].

(Sd.) *C. D.*,
(*Here add designation of examining officer.*)

* Those words to be omitted in case of women and children not engaging for labour.

STATEMENT OF OBJECTS AND REASONS.

The circumstances which make special legislation necessary to regulate emigration from the Madras Presidency to the Straits Settlements were fully explained in Council on the 6th June 1872, when leave was asked to introduce the Bill which passed as Act XIV of 1872. The Bill then introduced was intended merely to make temporary provision for a pressing emergency, and it was stated that a further measure to make permanent provision, in all requisite detail, for emigration to the Straits was then under preparation in communication with the Colonial Government and would afterwards be introduced. Some time, as might have been expected, has passed in arranging with the Government of the Straits the details of the present Bill and of the corresponding Ordinance intended to be passed by the Straits Legislative Council.

2. The law of the Straits Settlements has either been, or will soon be, placed on a permanent footing, and it is desirable that no further delay should take place in carrying out the legislation requisite here.

3. The present Bill, it will be seen, is based on the Indian Emigration Act, 1871. It differs from that Act, however, in two important respects. In the first place, the provisions it contains regarding the conveyance of emigrants to the depôt, the equipment of emigrant vessels, the embarkation of the emigrants, &c., are of a less detailed and stringent nature than the corresponding provisions of the Act of 1871. As was observed in the discussions which led to the passing of Act XIV of 1872, it would be absurd to hamper emigration to a Colony which may be reached in eight or ten days with regulations designed for a voyage like that to the West Indies.

4. The other point in which the present Bill differs from the Act of 1871 (and on this point it is more stringent than the Act of 1871) is in regard to contracts between recruiters and emigrants. The conditions of emigration from Madras to the Straits Settlements are somewhat different from those which prevail in other Colonies drawing their supplies of labour from India. The law in these other Colonies places upon the Government the responsibility for the fulfilment of the conditions under which the emigrant leaves his home; the immigrants are received by Government Agents on their arrival, and allotted to employers by these Agents; contracts are made on their behalf by Government, and Government undertakes to provide them with a free passage to India on the completion of their term of service, or sooner if they become disabled.

5. In the Straits Settlements, on the other hand, the contract has hitherto been confined to the emigrant and the individual employer; and the function of Government has been merely to watch over its due fulfilment by both parties. It is still intended that contracts shall be made in the first instance between emigrants and individual employers; and therefore it becomes specially necessary in the case of an emigrant to the Straits to make sure that the contract entered into by him before he leaves India distinctly provides for those points on which the Government of India is in the habit of insisting as essential. Hence the additional rules regarding the form and contents of contracts laid down in sections fifteen and sixteen of the present Bill.

6. It is however desired by the Government of India that the Government of the Straits Settlements shall guarantee to emigrants the performance of certain important conditions of their contracts, if the employers fail to perform them. It is also thought expedient to declare expressly that contracts made in Madras by Natives for repayment of money in the Straits Settlements, in consideration of assistance to leave India, shall be void except for the purpose of redeeming their contracts to work.

7. It will be observed that the present Bill proposes to repeal Act XIV of 1872, and thereby, so far as regards all India except Madras, to remit the Straits Settlements to the position they were in before the passing of that Act. That is to say, as regards all India except the Madras Presidency, emigration to the Straits Settlements will not be lawful, and cannot be made lawful except under the provisions of the Emigration Act of 1871. The reason for this state of things will be found stated in the proceedings of Council before referred to. The peculiarities of the labour traffic between Madras and the Straits Settlements are its long duration, the existence of a large Tamil population in the Straits, and the proximity of the two countries. These circumstances do not affect any part of India except Madras.

SIMLA;
The 10th September 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st September 1876:—

We, the undersigned Members of the Select Committee to which the Bill for consolidating and amending the laws relating to the Procedure of the Courts of Civil Judicature in British India was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Despatch from Secretary of State, No. 4, dated 4th February 1875.
From Sheriff of Calcutta, No. 5, dated 15th April 1875.
Office Memo. from Military Department, No. 181J., dated 9th June 1875, and enclosures.
Despatch from Secretary of State, No 34, dated 3rd June 1875.
From certain inhabitants of Farrukhábád, dated 6th September 1875.
Endorsement, Home Department, No. 1388J., dated 7th September 1875, forwarding—
Translation of an opinion by Ganpant Rao Yeswant of Satára.
Observations by J Pitt Kennedy, Esq., Standing Counsel, dated 20th September 1875.
From Government, North-Western Provinces, No. 605A., dated 7th October 1875, and enclosure.
„ Government of Bengal, No 3122, dated 4th November 1875, and enclosures.
„ Officiating Chief Commissioner, Oudh, No. 5200, dated 9th November 1875, and enclosures.
„ Officiating Chief Commissioner, Central Provinces, No. 4071—106, dated 10th November 1875, and enclosure
„ Officiating Chief Commissioner, British Burma, No. 1530 194, dated 20th November 1875, and enclosures.
„ Vakils of the Madras High Court, dated 26th November 1875.
„ Chief Commissioner of Oudh, No. 5687, dated 7th December 1875.
„ Registrar, High Court, Calcutta, dated 22nd December 1875, and enclosures.
„ Government of Bombay, No. 144, dated 8th January 1876, and enclosures.
„ Registrar, High Court, Calcutta, No. 62, dated 17th January 1876, and enclosure.
Endorsement, Department of Revenue, Agriculture and Commerce, No. 105, dated 8th February 1876, forwarding—
Letter from Government of Bombay, No. 7194, dated 22nd December 1875.
From Government of Bengal, No. 470, dated 11th February 1876, and enclosures.
„ Government of Madras, No. 243, dated 12th February 1876, and enclosure.
„ Government of Madras, No. 436J., dated 8th March 1876, and enclosures.
„ Government, North-Western Provinces, No. 62, dated 13th April 1876, and enclosures.
Remarks by L. P. D. Broughton, Esq.
Note by John Shaw, Esq., Registrar, High Court, Madras, dated 22nd May 1876.
Observations by the District Munsif of Travellore, Madras.
From Government of Bombay, No. 3968, dated 6th July 1876, and enclosures.
„ Government of the Panjáb, No. 204C, dated 5th August 1876, and enclosures.
„ Government of Bombay, No. 4022, dated 10th July 1876, and enclosure.

PRELIMINARY.

We have amended the definition of 'pleader' so as to make it include an attorney of a High Court, and have modified the definition of 'subordinate' Court so as to give District Courts power to control Courts of Small Causes, and we have added definitions of 'Judge,' 'judgment-debtor,' 'decree-holder,' 'affidavit' and 'public officer.' With the view of encouraging printing in legal proceedings, we have defined 'written' to include 'printed' and 'lithographed.' We have also amended the definition of 'Foreign Court' so as to exclude the Judicial Committee of the Privy Council. We have saved the Central Provinces Courts Act, 1865, the Panjáb Courts Act, 1865, Act XXVII of 1867, and all local laws prescribing a special procedure between landlord and tenant. We have struck out the obsolete references to trials by military officers of small suits in Madras and to District and Military Panchâyats in that Presidency.

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

We have amended the section (13) as to *res judicata* (*a*) by extending it so as to provide for estoppels against defendants, (*b*) by explaining, in accordance with a decision in 10 Bom. 293, that any matter which might and ought to have been made ground of defence in a former suit brought by the defendant against the plaintiff shall be deemed to be a matter substantially in issue in such suit, and (*c*) by providing that decisions alterable on review may be final within the meaning of this section. We have also struck out the clause relating to decisions obtained by arrangement; and we have omitted the illustrations as unnecessary.

CHAPTER II.—OF THE PLACE OF SUING.

We have here provided (section 15) for the venue of suits for compensation for wrongs to immoveable property. In section 19 we have provided for giving notice of motions to stay proceedings where the whole cause of action did not arise within the jurisdiction and all the defendants do not reside therein. Where a Court stays proceedings, we have declared (section 20) that the time required for proceeding from that Court to the Court in which the suit is re-instituted shall be excluded in computing the proper period of limitation.

We have provided (sections 21, 22, 23) for giving notice to the plaintiff where the defendant applies to transfer a suit capable of being instituted in different Courts (*a*) subordinate to the same Appellate Court, or (*b*) not so subordinate.

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

For sections 27, 28, 29, 30, 40 and 41 of Bill No. III, we have substituted eight sections as to parties, taken, with some modifications, from the Orders framed under the Supreme Court of Judicature Act, 1875.

We have provided (section 37) that certificated mukhtárs holding special powers of attorney may be recognized agents, and declared that in the Panjáb, Oudh and the Central Provinces recognized agents shall be such persons as the Local Government may by notification declare. This will enable the Local Government to keep, if it thinks fit, the special rules on this subject now in force in those territories.

We have amended the section (41) relating to the appointment of agents to receive process.

CHAPTER IV.—OF THE FRAME OF THE SUIT.

For the sections (44, 45, 46, 47) of Bill No. III, as to joinder of causes of action and multifariousness, we have substituted four sections taken from the Orders above mentioned. When the plaint is amended by excluding any cause of action, we have provided (section 47) that the amendment shall be attested by the Judge's signature.

CHAPTER V.—OF THE INSTITUTION OF SUITS.

We have here provided (section 49) that where English is not the language of the Court, the plaint may, with the permission of the Judge and the consent of the defendant, be in English.

Where the plaintiff has allowed a set-off, or relinquished part of his claim, we have required (section 50) that his plaint should state the amount so allowed or relinquished.

We think that, when once issues have been settled, the plaint should not be rejected, returned for amendment or amended; and we have altered section 53 (=52 of Bill No. III) accordingly. We have provided (section 52) for examining the witness to the verification. We have provided (section 54) for the rejection, &c., of the plaint if it is not framed so as to afford ground for a single decision on the whole subject in dispute and for the attestation of the amendments by the signature of the Judge. Where a plaint is returned we have required (section 57) that the endorsement be made by the Judge himself.

When the plaint is admitted we have required (section 58) the plaintiff to present as many copies as there are defendants, unless the Court permits him to file a like number of concise statements of the nature of the claim made, in which case he will file a like number of such statements. We have made provision in the same section for ascertaining the correctness of these copies and statements and of the memoranda of documents filed with the plaint.

Where the plaintiff relies on documents not in his possession, we have provided (section 60) that he shall state in whose possession they are, and where they are in the possession of a stranger to the suit, that he shall take out a summons requiring them to be filed in Court.

From the operation of the section (63) declaring the inadmissibility as evidence for the plaintiff of documents not produced when the plaint is filed, we have excluded documents produced for the examination of the defendant's witnesses or in answer to any case set up by him.

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

We have provided (section 65) that no summons to the defendant to appear and answer shall be issued when he has appeared at the presentation of the plaint and admitted the plaintiff's claim.

Even where railway communication exists, we think that no party should be ordered to appear in person who resides more than two hundred miles from the Court-house, and we altered section 67 (=section 64 of Bill No. III) accordingly.

Where the defendants are partners, we have provided (section 74) for service of the summons on any person having the management of the partnership business.

For the purpose of the section (76) relating to service on an agent by whom the defendant carries on business, we have declared that the master of a ship is the agent of the owner or charterer.

We think (section 81) that the practice of fixing a copy of the summons on the defendant's house should be discontinued, and that when he refuses to receive the copy or sign the acknowledgment of service, and where the serving-officer cannot find the defendant, and there is no one on whom service can be made, the serving-officer should return the summons with an endorsement that he has been unable to serve it, and we have required (section 82) the Court to examine him on oath touching the non-service. A similar provision, where the summons is sent to another Court to be served, is made in section 85.

We have inserted a section (84 = section 58 of Act VIII of 1859) providing that when service is substituted by order of the Court, a time shall be fixed for the defendant's appearance.

We have provided (section 95) for the service of notices and orders in writing.

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

Where neither party appears, we think (section 98) that the suit need not be dismissed when the Judge for reasons recorded under his hand otherwise directs. Where the plaintiff does not appear, but the defendant appears and admits part only of the plaintiff's claim, we have provided (section 102) that the Court shall dismiss the suit so far as relates to the remainder. Where the defendant appears and the suit is wholly or partially dismissed owing to the non-appearance of the plaintiff, and the plaintiff applies for an order to set the dismissal aside, we have provided in the same section that the defendant shall be served with notice of the application.

We have added to this chapter sections corresponding with chapter XXIII of Bill No. III as to setting aside decrees by default and *ex parte*.

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

To the section corresponding with section 105 of Bill No. III, we have added a few illustrations and a clause expressly providing that where the defendant, for the purpose of bringing the sum to be set-off within the pecuniary limits of the Court's jurisdiction, intentionally relinquishes any portion of his claim against the plaintiff, the provision in section 43, barring subsequent suits for sums so relinquished by plaintiffs, shall not apply.

We have allowed (section 112) written statements to be received, with the permission of the Court, at any time for the purpose of answering written statements made by the opposite party at the first hearing. And we think (section 115) that the Court should be expressly empowered to examine witnesses as to the signatures to written statements.

We have provided (section 117) that allegations of fact in written statements shall, if not denied, or stated to be not admitted, by the opposite party, be taken to be admitted *for the purposes of the suit*. We have here made no exception of minors and persons of unsound mind, and in this respect, and in the insertion of the words italicised, the section differs from the English Order XIX, rule 17.

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

We have here provided (section 118) that the Court may, if it think fit, put in the course of the examination questions suggested by either party, and (section 119) that the substance of the examination shall be reduced to writing by the Judge and form part of the record.

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

The first seven sections of this chapter are new. They empower parties to deliver interrogatories in writing and provide for inquiring into the propriety of exhibiting them, for striking out improper interrogatories, for making objections to answering interrogatories, and

for compelling persons to answer sufficiently. They correspond with the English Order XXXI, rules 1 to 10.

As to the admission of documents, we have amended section 128 (=113 of Bill No. III) by requiring the demand for admission to be served through the Court.

We have inserted sections (129, 130) empowering the Court to order production during the suit, and to direct parties to make discovery of documents relating to matters in question. And we have amplified (sections 131, 132, 133) the section (114) of Bill No. III relating to inspection of documents.

Where any discovery or inspection is objected to, and the Court is satisfied that the right to such discovery or inspection depends on the determination of any question in dispute in the suit, we have empowered (section 135) the Court to order that question to be first determined.

We have declared (section 136) that any person disobeying any order to answer interrogatories or for discovery or inspection, which has been served personally upon him, shall be deemed guilty of an offence under section 188 of the Penal Code, and that he shall also, if a plaintiff, be liable to have his suit dismissed, and, if a defendant, to be placed in the same position as if he had not defended.

The power which the Courts now possess under Act VIII of 1859, section 138, of sending for papers from nonjudicial public offices has, we find, been abused. We have therefore withdrawn this power, and persons applying to the Court to send for papers from judicial records will be required (section 137) to show that they cannot obtain the originals or authenticated copies.

We have expressly confined the section (138) requiring documentary evidence to be in readiness at the first hearing to documents in the possession or power of the parties.

We have provided (section 141) that no document shall be placed on the record unless it has been regularly proved or admitted. In the absence of such a provision questions frequently arise on appeal as to whether a document was in evidence or not.

We have provided (section 144) for the return of documents in suits in which an appeal is not allowed, and in all cases we have authorized their return when certified copies are delivered to the proper officer.

CHAPTER XI.—OF THE SETTLEMENT OF ISSUES.

We have exempted (section 146) the Court from the duty of framing and recording issues where the defendant at the first hearing makes no defence. When issues both of law and of fact arise in the same suit, and the Court considers that the case may be disposed of on the issues of law only, we have provided in the same section that the Court shall (not 'may') try the issues of law first. This, we think, will save expense, and will prevent cases being remanded for trial of issues of fact which, in the result, prove wholly irrelevant. As to issues by agreement of parties, we have provided (section 150) that, unless with the special permission of the Judge, no such agreement shall be filed after the Court has recorded issues in the suit.

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

We have here made no change requiring notice.

CHAPTER XIII.—OF ADJOURNMENTS.

We think that the provision in section 138 of Bill No. III that, when the hearing of evidence has once begun, the hearing of the suit shall not be adjourned, except from day to day, might occasionally have led to great inconvenience. We have therefore in section 156 substituted the following: "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 absolutely necessary for reasons to be recorded by the hand of the Judge."

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

We have omitted the power to insert in a summons the names of any number of persons. We have declared (section 165) that the rules contained in chapter VI as to proof of service shall apply in the case of all summonses served on persons required to give evidence or produce documents. Before attaching the property of a witness alleged to have absconded, we think that the serving officer should be examined on oath touching the non-service, and we have made a provision to this effect in section 167. We have omitted as useless the provision of the present law as to payment by the Collector of the costs of summoning a witness.

We have provided (section 173) that no witness who has been summoned and attends shall depart, unless he has been examined and the Court has risen, or he has obtained the Court's leave to go.

We have empowered (section 174) the Court to inflict a fine of Rs. 500 on persons failing to prove that they had a lawful excuse for not obeying the summons; and we have provided that non-payment or non-tender of reasonable viaticum shall be deemed a lawful excuse. When any such person is brought before the Court and cannot, owing to the absence

of parties, give the evidence or produce the document which he has been summoned to produce or give, we have by the same section authorized the Court to release him on bail.

We have declared (section 177) that no witness shall be bound to attend in person unless he resides (*a*) within the local limits of the Court's original jurisdiction, or (*b*) without those limits and less than fifty or (where there is railway communication) two hundred miles from the Court-house. It is obvious that there should be some limit beyond which parties should not be required to travel even by railway.

We have struck out the six sections (157 to 163 of Bill No. III) relating to the examination of parties as witnesses. This matter seems sufficiently provided for by the declaration contained in section 178 (=section 165 of Bill No. III), that when any party to a suit is summoned as a witness, the rules as to witnesses contained in the Code shall apply to him so far as they are applicable.

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

We have inserted (section 179) rules as to the right to begin.

We have provided (section 184) that any Judge may take down the evidence in English if the Local Government permits him to do so, or if the parties do not object.

Where the Judge taking down any evidence is removed from the Court before the conclusion of the suit, we have empowered (section 191) his successor to deal with the evidence as if he himself had taken it down.

Where a witness about to leave the jurisdiction is examined immediately, we have provided (section 192) that his evidence before being used as such shall be read over to him and, if he admits it to be correct, signed by him.

We have empowered the Court (section 193), at any stage of the suit, to recall and re-examine a witness who has not departed.

CHAPTER XVI.—OF AFFIDAVITS.

This chapter is wholly new. It empowers the Court to order any particular fact to be proved by affidavit: provides that evidence may be given by affidavit on any application or petition: indicates the matters to which affidavits should be confined: and lastly, specifies the officers by whom the oaths of declarants may be administered.

CHAPTER XVII.—OF JUDGMENT AND DECREE.

In accordance with a ruling of the Calcutta High Court, we have authorized (section 199) a Judge to deliver a judgment written by his predecessor but not delivered.

We think that, as a rule, the judgment should be written in the language of the Court, but we have provided (section 200) that if such language be not English or the Judge's mother-tongue, the judgment may be written either in English or his mother-tongue. We think (section 201) that the judgment need not be translated, unless any of the parties so require.

We have provided (section 202) that the judgment shall not be altered or added to, save to correct verbal errors or on review.

We think (section 203) that all judgments (save those of Small Cause Courts) should contain a concise statement of the case in addition to the matters mentioned in section 183 of Bill No. III.

We have provided (section 205) that the Judge before signing the decree shall satisfy himself that it has been drawn up in accordance with the judgment.

We have given power to amend the decree not only when it is at variance with the judgment, but also in case of clerical or arithmetical errors: but in all such cases we have provided (section 206) for notice to the parties or their pleaders.

In money-decrees, we think (section 209) that the interest allowed from the date of the decree should not exceed six per cent. per annum. This, we hope, will abolish the practice of treating such decrees as desirable investments.

We think (section 210) that no application for an order to pay the amount of a decree by instalments should be allowed after six months from the date of the decree, and we have provided for notice to the plaintiff of such applications.

In administering the assets of persons dying after the Code comes into force, we have provided (section 213) that the Courts shall be guided by the same rules as to rights of creditors, proveable debts and valuation of annuities, and future and contingent liabilities, as are in force as to the estates of persons adjudged insolvent, and that all persons who would be entitled to dividends out of the estate of any such deceased person, may come in under the decree and make their claims against the estate. We have declared in the same section that applications under section 265 of the Indian Contract Act, to wind up the business of a partnership, shall be deemed to be administration suits.

We think (section 216) that certified copies of the judgment and decree should not be furnished except at the expense of the parties applying for them.

CHAPTER XVIII.—OF COSTS.

We have here made no substantial change.

CHAPTER XIX.—OF THE EXECUTION OF DECREES.

We have distributed the matter of this long and important chapter under eight heads, namely, (*a*) Courts by which decrees may be executed, (*b*) application for execution, (*c*) staying execution, (*d*) the mode of executing decrees, (*e*) attachment of property, (*f*) sale and delivery of property, (*g*) resistance to execution, and (*h*) arrest and imprisonment.

Courts by which decrees may be executed.

For section 330 of Bill No. III, we have substituted a section (223) as to the Court by which a decree may be executed, and prescribing the procedure for sending a decree for execution to a Court other than that which passed it. When the Court passing the decree is subordinate to a District Court, we think it should send the decree to the District Court to which it is subordinate and that such Court should deal with the decree as if it had been passed by itself.

Application for execution.

When a decree has been transferred by assignment, we have provided (section 232) that notice of any application to execute it shall be given to the transferor and the judgment-debtor, and that it shall not be executed until the Court has heard their objections (if any) to such execution.

When the judgment-debtor dies before the decree is fully executed, and application is made to have it executed against his legal representative to the extent of the assets which are in his hands, we have empowered (section 234) the Court to compel the representative to produce his accounts.

We think (section 235) that applications for the execution of decrees should be verified like plaints, and that they should state whether any and what previous applications have been made, and with what result.

We have provided (section 236) for the verification of the descriptions of immoveable property sought to be attached.

The mode of executing decrees.

In section 244 (=section 329 of Bill No. III) we have omitted the clause as to questions relating to sums alleged to have been paid in discharge or satisfaction of a decree. This will get rid of the ambiguity arising from the provisions of section 206 of Act VIII of 1859 as compared with section 11 of Act XXIII of 1861.

We have directed (section 245) that applications for execution shall be rejected or returned for amendment when the needful particulars or inventories are wanting. Every such amendment will be attested by the Judge's signature. We have provided in the same section that in executing a decree for money, the value of the property attached shall as nearly as possible correspond with the amount of the decree.

We have omitted as useless the clause as to the execution of a decree for the share of a dwelling-house of an undivided Hindú family.

When a decree against a surety is executed, we have provided (section 253) for giving him previous notice.

We have introduced a section (254 = Order xlii, Rule 8) providing for the execution of a decree against partners in the name of the firm.

We have provided (section 258) that, when moneys payable under a decree are paid out of Court to the decree-holder, he shall certify the payment to the Court whose duty it is to execute the decree. We have omitted the proviso in section 203 of Bill No. III that decrees for the recovery of wives were to be declaratory only. We are informed that, in the Panjáb at least, such a rule would have worked unsatisfactorily.

We have provided (section 260) for the enforcement of injunctions, and declared in the same section that no attachment issued to enforce an injunction, or a decree for specific performance, shall remain in force for more than a year.

Attachment of Property.

We have exempted (section 266) from attachment and sale in execution of a decree the following articles:—the necessary wearing apparel of the judgment-debtor's wife and children, the tools of artizans: implements of husbandry: cattle kept *bond fide* for agricultural purposes: the materials of houses and other buildings belonging to and occupied by agriculturists: political pensions: the salaries of servants of Railway Companies: the pay and allowances of persons to whom the Native Articles of War apply: the wages of labourers and domestic servants.

We think that general attachments of the moveable property of judgment-debtors should no longer be permitted, and we have accordingly struck out the clauses (210, 235, 236, and part of 231) of Bill No. III relating to this subject. Ample power to obtain discovery as to such property is given by section 267.

We have provided (section 268) that no attachment to enforce a decree for a specific moveable 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 the decree-holder such compensation as it thinks fit, and pay the balance to the judgment-debtor.

We have empowered (section 269) the Local Government to make rules for the maintenance and custody of livestock and other moveable property while under attachment, and directed the attaching officer to act in accordance with such rules.

We have provided rules (section 271) for the attachment of moveable property in rooms actually occupied by native women.

We have introduced a section (273) dealing with the attachment of decrees.

We have provided (section 275) for withdrawing an attachment when the decree under which it has been made is set aside or reversed.

We have struck out the section (307 of Bill No. III = section 272 of Act VIII of 1859) empowering the Court to order the proceeds of property attached under a decree obtained fraudulently to be paid in satisfaction of another decree. The power is rarely used, and the case contemplated is, we think, one for a regular suit, not a summary proceeding.

Sale and delivery of Property.

We think (section 288) that the proclamation of execution sales should state the incumbrances (if any) to which the interest about to be sold is liable, and we have provided that no Judge, &c., shall be answerable for error in the proclamation unless it has been committed dishonestly.

We have struck out the clause (section 280 of Bill No. III) allowing process for attachment and sale of moveables to be issued either successively or simultaneously.

We have provided (section 291) for adjournments of execution-sales, and for stopping them on tender of the debt and costs, or on proof that the amount has been paid into the Court which ordered the sale.

We have forbidden (section 292) all officers conducting or otherwise concerned in sales to bid for or purchase the property sold.

In lieu of providing that the attaching creditor shall be first paid out of the assets realized, and that the surplus shall be distributed amongst the other execution-creditors, we have declared (section 295) that such assets shall (after deducting the costs) be divided rateably among all persons who have, prior to the realization, applied for execution of money-decrees against the judgment-debtor and have not obtained satisfaction. We have also provided that when any property liable to be sold in execution is subject to a mortgage, the Court may, with the assent of the mortgagee, order that the property be sold free from the mortgage, giving to the mortgagee, the same right against the proceeds as he had against the property sold.

Courts inferior to District Courts should not, in our opinion (section 303), have power to sell immoveable property in execution of a decree; but when any such inferior Court thinks that such a sale should be made, we have provided (section 304) that such Court shall refer the case to the District Court to which it is subordinate, and declared that the District Court may then sell as if the decree had been made by itself.

We have amended the section (309) empowering the co-sharer in an undivided estate to claim at sale price a share of such estate sold in execution. If the claim be made before sunset on the day of sale and the claimant then repay to the purchaser the amount of his deposit, the claimant will be substituted for the auctiou-purchaser.

We have fixed (section 312) sixty days as the time within which the purchaser of immoveable property may apply to set aside the sale on the ground that the judgment-debtor had no legally saleable interest therein.

We have by section 316 provided (in accordance with Act XI of 1859, section 28, and Schedule A) that the purchase shall be deemed to take effect from the date of the attachment.

As to sales of land by Collectors, we have substituted for section 276 of Bill No. III a clause (320) providing that the Local Government may, transfer to the Collector of any District the execution of decrees in cases in which a Court has ordered any interest in immoveable property to be sold. And we think (section 321) that whenever the execution of a decree has been so transferred, the Collector, if he thinks that the debts of the judgment-debtor can be discharged without a sale of the whole of the property, should, notwithstanding the order, have power to sell only part, or to mortgage the whole or any part, of the land, or to let or manage it himself for a term not exceeding twenty years from the date of the order. Where the Collector lets or manages we have provided (sections 322, 323) for giving notice to the judgment-creditors to come in; for excluding all other claimants from any right to payment out of the proceeds; for preventing the debtor from incumbering during the term the property so let or managed; and, if at the end of the term the requisite amount has not been raised, for selling such property. Where the Collector sells or exercises the power to mortgage, let or manage, we have required him (section 324) to inform the Court which made the order of sale, to render accounts to such Court and to hold the balance in his hands at its disposal.

Where the sale of immoveable property has been postponed to enable the judgment-debtor to raise the amount of the decree, and the Court authorizes him to sell, mortgage or let the property, we have provided (section 324) that all moneys payable under such sale, mortgage or lease shall be paid into Court and not to the judgment-debtor.

We have omitted (section 325) as unnecessary the power to order security to be taken from the defendant when the Court authorizes the Collector to stay the public sale of land. We have expressly empowered the Local Government (section 326) to make special rules for any territory prohibiting the sale of any class of interests in land in execution of money-decrees.

Arrest and Imprisonment.

We have provided (section 335) that a judgment-debtor may be arrested in execution at any hour and on any day, and that he shall thereupon be brought before the Court, except when the decree is for money and the judgment-debtor pays the amount of the decree and the costs of the arrest. When he is brought before the Court we have directed the Judge to inform him that he may obtain relief under Chapter XX, and if he express his intention so to apply, and if he furnish security for his appearance at any time when called upon, the Court will release him.

When the judgment-debtor fails to pay the amount of principal and interest, we have directed (section 337) the serving-officer to bring him before the Court, and when the serving-officer cannot execute the warrant, we think (section 343) that the Court should examine him on oath as to his inability.

We think (section 339) that no judgment-debtor should be arrested unless and until the decree-holder pays into Court a proper sum for the subsistence of the judgment-debtor from his arrest until he is brought before the Court. We have empowered the Local Government to fix scales of monthly allowances for the subsistence of judgment-debtors in prison.

As to imprisonment in execution of a decree, we have provided (section 341) that a judgment-debtor may be discharged from jail without the order of the Court when the term of his imprisonment is completed; and we think (section 342) that no person should be imprisoned for a longer period than six months, or when the decree is for the payment of a sum not more than Rs. 50, for a longer period than six weeks.

CHAPTER XX.—INSOLVENT JUDGMENT-DEBTORS.

We have here made numerous small amendments, the chief of which are the following:—As to fraudulent transfers, we think (section 351) that the Court need only see that they were not made within two months next before the date of the decree in execution of which the insolvent was arrested or imprisoned. We have provided (section 352) that all creditors, whether mentioned or not in the debtor's application, shall prove their debts. We have provided (section 355) that the receiver of the insolvent's property shall give security, and (section 356) that he may retain as remuneration five per cent. upon the amount of the balance distributed to the creditors. And we have reduced (section 359) from two years to one year the term for which a fraudulent insolvent may be imprisoned.

CHAPTER XXI.—OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

We have added two illustrations to the section (361) as to non-abatement by death where the cause of action survives.

We have provided a limitation (sections 364, 366) for applications under this chapter.

When a suit abates or is dismissed under this chapter, we have permitted (section 371) the person claiming to be the plaintiff's representative to apply to set aside the order of abatement or dismissal.

We have provided (section 372) for cases of assignment pending the suit.

CHAPTER XXII.—OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

We have provided here (section 373) for the case of abandonment of part of the plaintiff's claim, and (section 375) for the finality of decrees passed in accordance with compromises. We have made no other substantial change.

CHAPTER XXIII.—OF PAYMENT INTO COURT.

We have given the Court (section 376) a discretionary power with regard to the payment of deposits in Court to the plaintiff.

Where the Court decides that the defendant's deposit was a full satisfaction of the plaintiff's claim, we have provided (section 379) that the plaintiff shall pay, not the costs of the suit, but the costs incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

CHAPTER XXIV.—OF REQUIRING SECURITY FOR COSTS.

We think that the plaintiff should not be required to furnish security for costs unless a defendant so require. We have altered this chapter (section 380) accordingly.

CHAPTER XXVI.—OF COMMISSIONS.

When a Court inferior to a District Court issues a commission to examine a person residing within its jurisdiction, we have provided (section 385) that the selection of the person to execute the commission shall be subject to such rules as the District Court may prescribe.

We have provided (section 386) that any District Court and Court of Small Causes may issue commissions for the examination of officers of Government who cannot attend the Court without detriment to the public service, and of persons who are about to leave the jurisdiction before the date on which the suit in which their evidence is required is set down for hearing.

No Court inferior to a District Court, other than a Court of Small Causes, should, we think, issue commissions for the examination of persons resident beyond its jurisdiction. We have made a provision to this effect in section 386.

We have declared (section 391) that the provisions contained in this chapter as to the execution and return of commissions shall apply to commissions issued by Foreign Courts. We have struck out the section (385 of the Bill No. III) as to taking the evidence of prisoners. The matter is sufficiently provided for by the Prisoners' Testimony Act.

We have extended to proceedings as well as to suits the sections (392, 395) as to commissions for local investigations, and to examine accounts. In the case of the former class of commissions, when the Local Government has made rules as to the persons to be appointed commissioners, we have required the Court to comply with such rules.

CHAPTER XXVI.—SUITS BY PAUPERS.

We have added (section 402) libel to the list of civil injuries in respect of which a pauper should not be allowed to sue as such.

We think (section 407) that a pauper suing on the original side of the High Court should show that he does not possess property worth Rs. 100 except his wearing apparel and the subject-matter of the suit; and as to fraudulent disposals of property by a pauper, we have provided that the Court need only consider whether such disposal was effected within the two months next before the presentation of the pauper's petition.

We have struck out the sections (406, 407 of Bill No. III) authorizing parties to obtain summonses to witnesses and empowering the Court to make local investigations.

We have provided (section 411) that the Court-fees which would have been payable by the plaintiff, if he had not been allowed to sue as a pauper, shall be a first charge on the subject-matter, if any, recovered by him.

We think (section 414) the plaintiff should be dispaupered if he has entered into any agreement under which any other person has obtained an interest in the subject-matter of the suit.

CHAPTER XXVII.—SUITS BY OR AGAINST GOVERNMENT AND PUBLIC OFFICERS.

We think (section 416) that suits against Government and against public officers for acts done in their official capacity should not be instituted in any Court inferior to a District Court (a similar provision is made by the Bombay Civil Courts Act XIV of 1869, section 32); but we have provided that any such suit may be transferred to a subordinate Court.

We think (section 420) that in suits against a public officer, as well as in those against Government, the summons should be served on the Government Pleader, or on some person appointed to receive process in behalf of Government.

We have provided (section 424) that no suit shall be brought against Government or against a public officer as such until two months next after delivery of a notice in writing, stating the cause of action and the name and residence of the intending plaintiff. We have also provided that every suit against a public officer must be commenced within six months next after the accrual of the cause of action. Similar provisions are contained in the Police Act (V of 1861), section 42, and in various Municipal Acts.

CHAPTER XXVIII.—SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

We have laid down rules (section 430) as to when aliens may sue in the Courts of British India. We have declared (section 431) that a Foreign State may sue in our Courts, provided that it has been recognized by the Governor General in Council, and that the object of the suit is to enforce the private rights of the head or of the subjects of the Foreign State. We have also declared in the same section that the Courts shall take judicial notice of the fact that a Foreign State has not been recognized by our Government. We have barred suits (section 433) against Sovereign Princes, ruling Chiefs, ambassadors and envoys, except with the consent of Government, and declared that such consent shall not be given except in certain cases. We have exempted their persson from arrest under the Code, and we have declared that no decree shall be executed against their property unless with the permission in writing of a Secretary to Government. We have provided (section 434) for the execution in British India of the decrees of the Courts of Native States in alliance with Her Majesty.

CHAPTER XXIX.—SUITS BY AND AGAINST CORPORATIONS AND COMPANIES,

and

CHAPTER XXX.—SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

We have made no change in either of the above chapters.

CHAPTER XXXI.—SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

We have provided (section 442) that notice of application to take off the file plaints filed by or on behalf of minors without next friends, shall be given to the person presenting the plaint. We have altered section 445 (= section 439 of Bill No. III) so as to enable married women to act as next friends. We have required (section 443) the Court in every case, on being satisfied of a defendant's minority, to appoint a guardian *ad litem*, and have consequently omitted the sections (453 and 454 of Bill No. III) as to the assignment of a guardian at the instance of the plaintiff. We have taken the opportunity of declaring (section 443), contrary to the recent decision of Pontifex, J., that a guardian *ad litem* is not a guardian of person or property within the meaning of the Indian Majority Act, 1875. We have struck out as unsuited to the Mufassal the rule requiring an order to change a minor's pleader, and the rule against not giving a day to shew cause, when a decree is made against a minor defendant, and as to making payment to the receiver of money, &c., decreed to a minor. We have omitted from section 463, the provision as to the nature of the evidence contained in the corresponding section (462) of Bill No. III. We have exempted (section 464) from several sections of this chapter minors under the jurisdiction of the Court of Wards, and minors for whose persons or property guardians or managers have been appointed by the Civil Courts under any local law.

CHAPTER XXXII.—SUITS BY AND AGAINST MILITARY MEN.

We have here provided (section 463) for the case where the soldier concerned is serving in military staff employment.

CHAPTER XXXIII.—INTERPLEADER.

We have here merely amended the drafting of two of the sections.

CHAPTER XXXIV.—OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

We have expressly stated (section 477) that the suits in which plaintiffs may apply that security be taken for the defendant's appearance, are suits other than suits for the possession of immoveable property. Where the defendant is imprisoned for failing to give security, we think (section 481) that the maximum term of imprisonment should be six months.

We have provided (section 482) that subsistence allowance shall be paid into Court in the case of every arrest under this chapter.

We have provided (section 488) for removing the attachment when the suit is dismissed. Where property is attached under this chapter, and a decree is given in favour of the plaintiff, we have declared (section 490) that it shall not be necessary to re-attach the property in execution of the decree.

We have struck out the section (492 of Bill No. III) empowering the Court to stay the sale of property already under attachment, when execution of a decree fraudulently obtained is applied for. The reasons for omitting section 308 of that Bill are equally applicable to section 492.

CHAPTER XXXV.—OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

We have empowered (section 492) the Court to grant an injunction to stay a wrongful sale in execution of a decree. We have been informed that the corresponding clause of Act VIII of 1859 (section 92, first sentence,) has been held not to apply to such a case.

We have provided (section 493) that the imprisonment by which injunctions granted under this chapter may be enforced shall not exceed six months.

We have added sections (498, 499, 500) empowering the Court to order the interim sale of perishable articles: the detention, preservation, or inspection of any property forming the subject of the suit: and, for the purposes aforesaid, the entry on or into any land or building in the possession of any party to the suit, the taking of samples, making of observations and trial of experiments. They correspond with the English Order 32, rules 2, 3 and 4.

CHAPTER XXXVI.—APPOINTMENT OF RECEIVERS AND MANAGERS.

We have here expressly provided (section 503) that Receivers and Managers shall pass their accounts, pay the balance due thereon, and be responsible for loss occasioned by their wilful default or gross negligence. We think (section 505) that the powers conferred by this chapter should be exercised only by High Courts and District Courts.

CHAPTER XXXVII.—REFERENCE TO ARBITRATION.

Where an umpire is appointed, we have required (section 509) the Court to fix a reasonable time for the delivery of his award.

We have provided (section 514) for superseding the arbitration where, owing to the fault of the parties, the arbitrator cannot complete his award within the specified period.

We have provided (section 522) that decrees following judgments according to awards shall be final.

When the arbitrator is not named in an agreement to refer, and the parties cannot agree as to the nomination, we have empowered (section 523) the Court to nominate him.

CHAPTER XXXVIII.—OF PROCEEDINGS ON AGREEMENT OF PARTIES.

We have here merely added a direction (section 527) that cases stated under this chapter shall be divided into consecutively numbered paragraphs, and concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby.

CHAPTER XXXIX.—OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

This chapter corresponds with 18 & 19 Vic., c. 67 and Act V of 1866, sections 2 to 8. We have here declared (in accordance with decisions of Bramwell B. and Phear J.) that the defendant shall not be required to pay into Court the sum mentioned in the summons, unless the Court thinks his defence not to be *primâ facie* sustainable or feels reasonable doubt as to its good faith. And we have taken the opportunity of declaring (contrary to the decision of the latter Judge) that the clause corresponding with Act V of 1866, section 2, is not confined to cases in which the bill sued upon, together with mere lapse of time, is sufficient to establish a *primâ facie* right to recover.

Act V of 1866 is now in force in the Charter High Courts, the Chief Court of the Panjáb, the Rangoon Recorder's Court, and the Small Cause Court of Madras. We propose (section 538) to extend the corresponding chapter of the Code also to the Small Cause Courts of Calcutta and Bombay and to the Court of the Judge of Karáchi.

We have omitted chapter XLI of Bill No. III (Bar of Appeals not expressly permitted) as unnecessary. No appeal can lie unless it is allowed by the Code or some other law for the time being in force.

CHAPTER XL.—OF APPEALS FROM ORIGINAL DECREES.

We have struck out the clause requiring appeals to the High Court to be heard by two or more Judges. It would limit the discretion expressly conferred by Act of Parliament and Royal Charter.

We have provided (section 540) that the memorandum of appeal shall be presented by the appellant or his pleader, and shall be accompanied by a copy not only of the decree, but also of the judgment on which the decree is founded.

We have struck out, as likely to work unsatisfactorily, the provisions contained in sections 548—553 of Bill No. III, which authorize the appellant merely to state generally his dissatisfaction with the decree appealed against, and to file his grounds of objection separately.

Where a memorandum of appeal is amended, we have required (section 543) the Judge to attest the amendment.

We have empowered (section 550) the appellate Court, after hearing the appellant, if he appears, to confirm the decision appealed against without sending notice of the appeal to the lower Court or serving such notice on the respondent. A similar rule exists in the Panjáb (Act IX of 1873, section 7), and has been found to work well.

We have laid down rules (section 556) as to the right to begin (*a*) where the appeal is from the whole decree, (*b*) where there are cross-appeals, and (*c*) where the appeal is from only a portion of the decree and there is no cross-appeal.

We have provided (section 560) a period of limitation for applications to re-hear, where judgment has been given *ex-parte* against the respondent.

Where a case is remanded with direction to take specified evidence, we have authorized (section 563) the Court to receive evidence tendered to contradict evidence so taken.

We have redrawn the section (575 = section 589 of Bill No. III) as to decisions of appeals heard by Benches of two or more Judges who differ. When there is no majority on the Appellate Bench which concurs in reversing or varying the decree appealed against, we think that decree should stand.

We have omitted as useless the provision as to sealing the decree in appeal.

CHAPTER XLI.—OF APPEALS FROM APPELLATE DECREES.

We have struck out the clause requiring the pleader presenting an appeal to certify that the grounds are reasonable, and forbidding him to give such certificate unless he has been authorized by the High Court. We have also omitted the clause declaring that an application for a second appeal shall be argued only by the pleader signing such certificate.

CHAPTER XLII.—OF APPEALS FROM ORDERS.

We have declared (section 588) that an appeal shall lie from orders determining whether immoveable property is or is not within the local limits, from orders striking out or adding the names of persons as plaintiffs or defendants, from orders under section 44 adding a cause of action, from orders under section 47 excluding a cause of action, from orders under section 234 as to questions relating to the execution of decrees, from orders under section 176 where a party refuses to give evidence called for by the Court, from orders rejecting applications under section 371, from orders disallowing objections under section 373, and from orders under section 518 modifying an award.

Appeals from orders in insolvency will in all cases lie (section 589) directly to the High Court.

CHAPTER XLIII.—OF PAUPER APPEALS.

Except some trifling omissions, we have made no change in this chapter.

CHAPTER XLIV.—OF APPEALS TO THE QUEEN IN COUNCIL.

We have here provided (section 610) for estimating in Indian currency sums expressed in orders of Her Majesty in Council to be payable in British currency, and we have authorized (section 613) the High Courts to make rules as to the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council.

CHAPTER XLV.—OF REFERENCE TO THE HIGH COURT.

We have extended (section 617) this chapter to questions arising before or in the hearing of a suit and in the execution of a decree. We have struck out the clause providing that references shall be heard by not less than two Judges of the High Court. We have provided (section 621) that when a case is referred, the High Court may alter, cancel or set aside any decree which the Court making the reference may have passed in the suit. We have omitted as useless the section requiring the High Court to fix an early day for hearing references. Our other changes here are merely verbal.

CHAPTER XLVI.—OF REVIEW OF JUDGMENT.

We think (section 622) that powers similar to those given by this chapter to High Courts may usefully be given to District Courts as to cases decided by subordinate Courts, including Courts of Small Causes.

We have struck out the clause empowering an appellant to abandon his appeal and apply for a review. We have extended the clause (624) forbidding (except in certain cases) applications for review of judgments to be made to Judges other than those who delivered them, to cases in which a clerical error has been discovered on the face of the decree. Where the business of the Court whose judgment is sought to be reviewed has been transferred to another Court, we have authorized (section 626) the application to be made to the latter Court. But we think (section 624) that except on the discovery of some new and important matter or evidence or of some clerical error apparent on the face of the decree, no application for the review of a judgment should be made to any Judge other than the Judge who delivered it. Where a review is granted, we have required (section 626) the Judge to record with his own hand his reasons for so doing.

We have omitted the clauses forbidding subordinate Courts to grant reviews without permission of the higher Court.

We think (section 629) that the order granting a review or rejecting an application for a review should be final except where the review has been granted without jurisdiction. Where the application has been rejected in consequence of the failure of the parties to appear, we have provided for restoring in proper cases the application to the file. We have also expressly forbidden the Courts to entertain applications to review orders passed on review or on applications for review.

CHAPTER XLVII.—SPECIAL RULES RELATING TO THE HIGH COURTS.

We have here omitted the following sections of Bill No. III for the reasons respectively appended thereto—

665 (as to the extraordinary original jurisdiction of the High Court) : provided for by the Charters,

666 (power to High Court to provide for the exercise of its jurisdiction) : ditto,

668 (decision when Judges differ) : provided for in the prior part of the Bill,

670 (declaring that acts required to be done by a pleader may be done by an attorney) : ditto,

672, 673 (power to refer matters for investigation in chambers) : provided for by the Charters,

37, 674 (signature of the Registrar) : provided for by the former part of the Bill,

675 (language) : unnecessary,

676 (assessors) : ditto,

677 (interlocutory orders) : ditto,

678 (appearance of vakíls on the original side) : can be provided for under the Charters,

681 (obtaining summonses from Registrar) : unnecessary,

684 (procedure in testamentary and intestate cases) : provided for by rule.

We have empowered the High Court to declare by rule what shall be deemed to be "acts not of a judicial nature," which may be done by the Registrar.

We have declared (section 640) that the following portions of the Code shall not apply to the High Court in the exercise of its ordinary and extraordinary original civil jurisdictions, *viz.* :—

37, recognised agents;

54, clause (*a*), rejection of plaint where relief sought is under-valued;

160, payment into Court of expenses of witnesses;

206, contents of decree;

263, decree for execution of conveyances or endorsement of negotiable instruments.

We have expressly empowered (section 641) the High Court to prescribe forms for its own use.

CHAPTER XLVIII.—MISCELLANEOUS.

We have struck out as now unnecessary the clause (section 686 of Bill No. III) declaring that where the highest Civil Court of appeal consists of a single Judge, he shall have the powers which were (but are not now) vested by this Code in two or more Judges.

We have amended (section 643) the rules as to the names of persons exempt from appearance in Court. We have omitted the following sections of Bill No. III—

687, 688, as to assessors (obsolete and useless),

697, as to verifying false plaints (provided for by the Penal Code),

705, as to ministerial officers (can be provided for executively),

708, as to deposits in lieu of bail (useless).

We have also struck out the clause empowering the Government of India to invest a Chief Commissioner with the powers of a Local Government under the Code. This matter is sufficiently provided for by Act XXXII of 1867.

We have redrawn the section (644) relating to exemption from arrest. It now provides that no judicial officer shall be liable to arrest under the Code while going to, presiding in, or returning from, his Court, and that the parties to a suit and their pleaders, recognized agents and witnesses shall be similarly exempt while going to or attending a Civil Court for the purpose of such suit, and while returning from such Court.

We have struck out the section (698 of Bill No. III) as to certain offences in Court not relating to documents. The matter seems sufficiently provided for by the Code of Criminal Procedure.

We have introduced a section (648 = Act XI of 1865, section 42) enabling registrars of Mufassal Courts of Small Causes to state cases for the opinion of the Judge.

We have provided (section 650) for attaching property situate outside the local limits of the jurisdiction of the Court making the order of attachment.

We have provided (section 653) a punishment for escape from civil custody.

We have empowered (section 654) the High Court to make rules to regulate any matter connected with the procedure of the Courts of Civil Judicature.

SCHEDULE I.—REPEALS.

We have added to this schedule the Lords Day Act (29 Car. II, c. 7): sections 8, 9, 10, 11, the second clause of section 19, sections 22 to 28 (inclusive), 42, and part of 32 of the Mufassal Small Cause Courts Act XI of 1865, parts of Acts XIV and XIX of 1865, and the unrepealed part of Act XXIV of 1866, the whole of Act X of 1867, and so much of sections 15 and 16 of Act XV of 1869 as relates to process issued by a Civil Court. We have also added Act IX of 1873, sections 7, 9 and 10, and Madras Regulation XIV of 1816, section 27.

SCHEDULE II.—SECTIONS EXTENDING TO MUFASSAL COURTS OF SMALL CAUSES.

We have made a few changes in this schedule, the most important of which is the addition of the chapters on interpleader and on reference to the High Court.

SCHEDULE IV.—FORMS.

We have added a few forms—concise statements of claim: statements of defence: temporary injunctions; and we have amended some of the forms of decrees.

We have also made numerous small changes in the wording and arrangement of the Bill, and we think that it has been so altered that it should be republished with this report in the *Gazette of India* and the local Gazettes, and that its further consideration should be stayed till the Council re-assembles in Calcutta.

We desire, in conclusion, to express our acknowledgments of the learning, acuteness and industry evinced by many of the communications respecting the Bill. We would in particular mention those by Mr. Pitt Kennedy the Standing Counsel, Mr. Belchambers the Registrar of the High Court at Fort William, Mr. Plowden the Government Advocate, Panjáb, Mr. Nelson of the Madras Civil Service, Messrs. Field, Maclean, Crosthwaite, and J. W. Smyth, all of the Bengal Civil Service, and Hukm Chand, Extra Assistant Commissioner, Montgomery.

A. HOBHOUSE.
E. C. BAYLEY.
J. INGLIS.
F. R. COCKERELL.
T. C. HOPE.

SIMLA;
The 13th September 1876.

No. IV.

THE CODE OF CIVIL PROCEDURE.

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THE FIRST SCHEDULE.—*A.*—Statute repealed.
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A Bill 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. commencement.

1. This Act may be cited as "The Code of Civil Procedure:" and it shall come into force on the day of 1876.

Local extent.

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.

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." "District Court." "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.

"jail." "jail" means the civil jail of the district, or any place appointed by the Local Government for the confinement of persons under civil process:

"pleader." "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:

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

"the cause of action." "a part of the cause of action." "the cause of action" means the whole of the circumstances which a plaintiff must allege in order to shew a right to sue, and "a part of the cause of action" means some one of those circumstances:

"judgment." "judgment" means the statement given by the Judge as the grounds of the order or decision by which a suit or appeal is determined:

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

"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." "decree-holder" means any person in whose favour a decree has been made, and includes any person to whom such decree is transferred:

"affidavit." "affidavit" means a declaration in writing sanctioned by the oath of the declarant administered by a Court or person duly authorized for that purpose:

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

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

"public officer" defined. "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.

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

Enactments repealed. **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.

Refereances in previous Acts. 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;

Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma. **4.** Save as provided in 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.

Sections extending to Mufassal Small Cause Courts. **5.** The chapters and sections 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 do not extend to such Courts. But nothing herein contained shall be deemed to enlarge the powers which such Courts now possess for the purposes of effecting attachments or executing decrees.

Saving of jurisdiction and procedure— **6.** Nothing in this Code affects the jurisdiction or procedure—

(a) of Military Courts of Request; (a) of Military Courts of Request;

(b) of officers appointed to try small suits in Bombay; (b) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázárs at Cantonments and Stations occupied by the troops of that Presidency; or

(c) of Village Munsifs and Village Panchávats in Madras. (c) of Village Munsifs or Village Panchávats under the provisions of the Madras Code.

7. With respect to—

Saving of certain Bombay laws. (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 these rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

Code not to apply to Presidency Small Cause Courts, till specially extended. **8.** Save as provided in sections 25, 86, 225 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, 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:	References to the High Court.
The eighth Part:	Review of Judgment.
The ninth Part:	Special Rules relating to the High Court.
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.

Courts to try all civil suits unless specially barred. **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.

Pending suits. **12.** Except where a suit has been stayed under section 19, the Court shall not try any suit in which the matter in issue is also substantially in issue in a previously instituted suit 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, or in any Court beyond the limits of British India established by the Governor General in Council, or before Her Majesty in Council.

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.

Res judicata. **13.** No Court shall take cognizance of any suit, nor shall it try any issue, in which the matter 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.

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 in a former suit brought by the defendant against the plaintiff, shall be deemed to have been a matter substantially in issue in such suit.

Explanation III.—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.

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.

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.

CHAPTER II.

OF THE PLACE OF SUING.

Court in which suit to be instituted. **14.** Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate. **15.** 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 distrained or attached,

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

Provided that suits to obtain relief respecting 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 or 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. **16.** Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

(a) 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

(b) 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; or

(c) the cause of action arises; or

(d) a part of the cause of action arises.

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 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 Dehli. 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 Dehli, where B carries on business

(b.) A, resides at Simla, B at Calcutta, and C at Dehli 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 Beneras, 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.

(c.) A draws in Simla, a bill on B, who accepts the bill in Calcutta, and returns it by post to A. The bill does not mention any place of payment. It is presented to B in Calcutta, and he fails to pay. One part of the cause of action has arisen at Simla and others at Calcutta. The suit may therefore be brought either in Simla or in Calcutta.

(d.) A signs a contract in Calcutta for the delivery of rice to B at Dehli, and delivers it accordingly. B does not pay the price, and A sues him for it. One part of the cause of action has arisen in Calcutta and another in Dehli. The suit may therefore be brought either in Calcutta or in Dehli.

(e.) A, lets a house in Howrah to B, at a monthly rent payable in Howrah. A dies intestate. C obtains in Calcutta, a grant of letters of administration to A's estate. B allows the rent to fall into arrear. One part of the cause of action has arisen in Calcutta and another in Howrah, and C may therefore sue B for the arrears either in Calcutta or in Howrah.

17. 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.

Forum in suits for compensation for wrongs.

Illustrations.

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

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

(*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.

18. If the suit be for 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.

Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

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.

19. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction only part of the cause of action arose, and where 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;

Power to stay proceedings where the whole cause of action did not arise and all defendants do not reside within jurisdiction.

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.

Application when to be made.

20. Where the Court, under section 19, stays proceedings, and the plaintiff re-institutes 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.

Remission of Court-fee where suit instituted in another Court.

The interval between the institution of the suit and the date of so staying proceedings and the time requisite for proceeding from the Court in which proceedings are stayed to the Court in which the suit is re-instituted shall be excluded in computing the period of limitation prescribed for such suit.

Computation of period of limitation for such suits.

21. 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.

Procedure where Courts in which suit may be instituted are subordinate to the same appellate Court.

22. 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.

Procedure where they are not so subordinate.

23. 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.

Procedure where they are subordinate to different High Courts.

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.

24. If, in a suit for immoveable property, the defendant object to the hearing of the suit on the ground that no part of the property is situate within the local limits of the jurisdiction of the Court in which the suit is instituted, or to which it has been transferred, the Court may by order determine the point;

Suit for immoveable property alleged to be within another local jurisdiction.

and if the Court find that the property or any part thereof is situate within such limits, it shall proceed to try the suit.

25. The High Court or the District Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, withdraw any suit instituted in any Court 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.

Transfer of suits.

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.

Persons who may be joined as plaintiffs.

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 may seem just.

Court may substitute or add plaintiff for or to plaintiff suing.

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 cause of action. 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.

Persons who may be joined as defendants.

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, hundís and promissory notes.

Joinder of parties liable on same contract.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may sue or be sued, or may be authorized by the Court to defend in such suit, on behalf or for the benefit of all parties so interested.

One party may sue or defend on behalf of all in same interest.

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.

Suit not to fail by reason of misjoinder.

32. The Court may, at any time before the issues are settled, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party whether as plaintiff or as defendant, improperly joined, be struck out; and that the name of any party whether plaintiff or defendant, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Court may dismiss or add parties.

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

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

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned. and the proceedings as against them shall be deemed to have begun only on the service of such summons.

Defendants added to be served.

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.

Where defendant added, plaintiff to amend.

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 issues are settled; and any such objection not taken before the issues are settled shall be deemed to have been waived by the defendant.

Time for taking objections as to non-joinder or misjoinder of parties.

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.

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.

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

Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

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 in such Court, may, except when otherwise expressly provided by this Code, 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:

Appearances &c., may be in person, by recognized agent or by pleader.

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

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

Recognized agents.

(*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.

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

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

Certificated mukhtárs.

(*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.

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

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.

Recognized agents in Panjáb, Oudh and Central Provinces.

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

Service of process on recognized agent.

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.

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

Appointment of pleader.

When so filed, it shall be considered to be in force until revoked with the permission of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or the decree or final order is drawn up.

No advocate of any High Court established by Royal Charter shall be required to file or 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, 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 as if the same had been given to or served on the party in person.

Service of process on pleader.

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

Agent to receive 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.

His appointment to be in writing and to 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, a suit for the portion so omitted or relinquished shall not afterwards be entertained.

Relinquishment of part of claim.

44. *rule a.*—No cause of action shall, unless by order of the Court, be joined with a suit for the recovery of land, except claims in respect of mesne profits or arrears of rent in respect of the premises claimed, and damages for breach of any contract under which the same or any part thereof are or is held.

Only certain claims to be joined with suit for recovery of land.

rule b.—Claims by or against husband and wife may be joined with claims by or against either of them separately.

Claims by or against husband and wife.

rule c.—Claims by or against an executor or administrator as such, may be joined with claims by or against him personally, provided 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 or administrator.

Claims by or against executor.

rule d.—Rules *b* and *c* shall be subject to the provisions of sections 45, 46 and 47.

45. 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.

Plaintiff may join several causes of action.

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 issues are settled, of its own motion or on the application of the defendant, order separate trials of any such causes of action

Court may order separation.

to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are so united, the jurisdiction of the Court to hear the suit shall depend on the amount or value of the aggregate subject-matters.

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 issues are settled 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 proceeding.

Defendant may apply to confine 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.

Court on hearing application may exclude some causes an order amendment.

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

CHAPTER V.

OF THE INSTITUTION OF SUITS.

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

Suits to be commenced by plaint.

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 and the consent of the defendant) be written in English.

Language of plaint.

50. The plaint must contain the following particulars:—

Particulars to be contained in plaint.

(*a*) the name of the Court in which the suit is brought;

(*b*) the name, description and place of abode of the plaintiff;

(*c*) the name, description and place of abode of the defendant, so far as they can be ascertained;

(*d*) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(*e*) a demand of the relief which the plaintiff claims; and

(*f*) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

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

In money-suits.

Illustration.

A sues for mesne profits:

A sues for the amount which will be found due to him on taking unsettled accounts between him and B.

In each of these cases the plaint need only state approximately the amount sued for.

When the plaintiff sues in a representative character, the plaint should shew, 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*.) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*.) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(*c*.) 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 plaint must shew 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 shewn.

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 plaint must shew 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 plaint must shew the ground upon which exemption from such law is claimed.

Grounds of exemption from limitation-law.

51. The plaint 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 person 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.

When the plaint is verified by any person other than the plaintiff, such person shall set forth his knowledge or the grounds of his belief on the subject, and the reason why the verification was not made by the plaintiff.

The verification shall be signed by the person making it in the presence of a witness, who shall also sign it.

Verification to be signed and attested.

The Court may in any case examine such witness as to the fact of the signature, and shall so examine him when the person making the verification does not appear.

53. The plaint may, at the discretion of the Court, and at any time before the issues are settled, 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 plaint 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.

Proviso. Provided that a plaint 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 plaint is amended, the amendment shall be attested by the signature of the Judge.

When the plaint shall be rejected. **54.** The plaint 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 plaint 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, in the case mentioned in section 381, the plaintiff fail to furnish security for the payment of the costs that may be incurred by the defendant:

(*d.*) If the suit appear from the statement in the plaint to be barred by any positive rule of law.

Procedure on rejecting a plaint. **55.** When a plaint is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order.

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

When the plaint shall be returned to be presented to the proper Court. **57.** The plaint 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 15, it appear that no part of such property is situate within the local limits of the Court's jurisdiction:

(*c.*) If, in any other case, it appear that the cause of action, or a material part thereof, did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

Procedure on returning plaint. On returning a 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.

Procedure on admitting plaint. **58.** If the Court consider the plaint admissible, it shall cause the plaintiff to endorse thereon, or to annex thereto, a memorandum of the documents (if any) which he has filed along with it; and the plaintiff 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 file a like number of concise statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall file such statements.

Concise statements.

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

The plaintiff may, by leave of the Court, amend any such statement so as to make it correspond with the plaint.

The chief ministerial officer of the Court shall sign such endorsement 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 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.

Production of document on which plaintiff sues. **59.** If a plaintiff sue upon a document in his possession or power, he shall 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.

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

Procedure in case of documents not in his possession or power. **60.** In the case of any document not in his possession or power he shall, if possible, state in whose possession or power it is, and, when it is in the possession or power of a person not a party to the suit, shall take out a summons against such person, requiring him to file the document in court within such time after the service of the summons as the Court in each case directs, and stating the time so directed.

Suits on lost negotiable instruments. **61.** In case of any suit founded upon a bill of exchange or other negotiable 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 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.

Production of shop-book. **62.** If the document on which the plaintiff sues be an entry in a shop-book or 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.

Original entry to be marked and returned. The Court, or such officer as it appoints in this behalf, shall forthwith mark 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.

Inadmissibility of document not produced when plaint filed. **63.** A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered at the foot of 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.

Summons. **64.** When the plaint has been registered, and the copies or statements required by section 58 have been filed, a summons may be issued to the 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.

Indorsement of claim. **65.** Every such summons shall be accompanied with one of the copies or 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 limits 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 between the place where he resides and the place where the Court is situate, two hundred, miles from the court-house.

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

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

Fixing day for appearance of defendant. **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.

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

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

On issue of summons or 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 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.

Mode of service. **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.

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, 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.

Service to be on defendant in person, when practicable, or on his agent. **75.** Whenever it may be practicable, the service shall be 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.

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 for immoveable property, if the summons cannot be served on the defendant in person, and the defendant have no agent empowered to accept the service of the summons, it may be served 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 the copy of the summons to the defendant personally, or to an agent or other person on his behalf, the serving-officer 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 or on a copy thereof signed and sealed as aforesaid.

Person served to sign acknowledgment.

80. 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, or on a copy thereof signed and sealed as aforesaid, the time when and the manner in which the summons was served.

Endorsement of time and manner of service.

81. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons,

Procedure when defendant refuses to accept service,

or if the serving officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

or cannot be found.

the serving-officer shall return the summons to the Court from which it issued, with an endorsement thereon that he has been unable to serve it.

82. When a summons is returned without having been served, the Court shall examine the serving-officer on oath touching the non-service; and if 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.

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

Effect of substituted service.

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.

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

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 most 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, deliver it to the proper officer of such Court, to be served, endorsed and returned in the manner hereinbefore directed.

Upon the return of the summons by the serving-officer, if it has not been served, the Court to which it has been sent shall examine him on oath touching the non-service and record the result; and the summons shall be sent back 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 cause it to be served in the same manner as if it had issued from such Court,

and, after having been so served, the process shall be returned 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

Procedure if jail be in a different district.

issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

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 situate.

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.

Service through British Resident or Agent of Government.

91. Nothing herein contained shall prevent the Court from substituting 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.

Substitution of letter for summons.

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 or other communication is substituted for a summons, it may be sent by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the person whose appearance is required has an agent empowered to accept the service of the summons, in which case it may be served on such agent.

Mode of sending such letter.

Service of Process.

93. Wherever this Code provides that any notice, summons, letter or other communication may be sent to the person to whom it is addressed by post, proof that the same was correctly addressed to such person at his place of residence, and that it was posted and registered according to the law for the time being regulating the management of the Post Office shall, in the absence of evidence to the contrary, be sufficient proof of the due service and delivery of the notice summons, letter or other communication.

Proof of due service and delivery of process sent by post.

94. Every process required to be issued under this Code shall be served at the expense of the party at whose instance it is issued, unless the Court otherwise directs.

Process to be served at expense of party issuing it.

The sum required to defray the costs of such service shall be paid into Court before the process is issued, within a period to be fixed by the Court issuing the process.

Costs of service.

Postage, where chargeable on any notice, summons, letter or other communication forwarded by post and the fee for registering the same, shall be costs required to be paid as aforesaid within the meaning of this section.

Postage.

In fixing the costs to be paid for service of process, regard shall be had to any law or to any rules issued by the High Court for fixing the amount of such costs.

Fixing of costs of service.

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

Notices and orders in writing how served.

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.

Parties to appear on day fixed in summons for defendant to appear and answer.

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 deposit, within the period fixed by the Court, the sum required to defray the cost of issuing or serving such summons, the Court may order that the suit be dismissed:

Dismissal of suit where summons not served in consequence of plaintiff's failure to deposit costs of issuing it.

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.

Proviso.

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

If neither party appear, suit to be dismissed.

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 making the deposit required within the time allowed 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.

In such case plaintiff may bring fresh suit;

or Court may restore the suit to its file.

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

Procedure if only plaintiff appear.

when summons was duly served.

(*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:

When summons not duly served.

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

When summons served, but not in due time.

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 may direct as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-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.

Procedure where defendant only appears.

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.

Decree against plaintiff by default bars fresh 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.

103. 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.

Procedure where defendant residing out of British India does not appear.

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

Procedure in case of non-attendance of one or more of several plaintiffs.

105. If there be more defendants than one, and one or more of them appear, and the others of them 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.

Procedure in case of non-attendance of one or more of several defendants.

106. 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.

Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.

107. In support of the cause shown by a plaintiff or defendant for failing to appear in person, the Court shall receive any declaration in writing signed by such plaintiff or defendant and verified in manner hereinbefore provided for the verification of plaints.

Court to receive written declaration in support of cause shown for failure to 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;

Setting aside decree *ex parte* against defendant.

and if it be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was 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.

No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. The parties may, at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements, place them on the record, and deal with them as if given in evidence.

Written statements.

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.

Particulars of set-off to be given in written statement.

The Court shall thereupon enquire 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.

Enquiry.

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.

Effect of set-off.

When the defendant, for the purpose of availing himself of the provisions contained in this section, intentionally relinquishes any portion of his claim against the plaintiff, nothing in section 43 shall apply to the portion so relinquished.

Relinquishment of portion of claim for purpose of set-off.

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, in which B seeks the set-off.

(*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.

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

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

Provided 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:

Court may at any time call for written statements.

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 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.

Procedure when party fails to present written statement called for by Court.

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 believes he will be able to prove.

Frame of written statements.

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.

Written statements to be 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.

Rejection of argumentative, prolix or irrelevant written statements.

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.

117. Every allegation of fact in any written statement, if not denied specifically or by necessary implication, or stated to be not admitted by the opposite party, shall be taken to be admitted for the purposes of the suit.

Allegation of fact not denied admitted for purpose of suit.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

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 he 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.

Oral examination of party, or companion of himself or his pleader.

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

Substance of examination to be written.

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

Consequence of refusal or inability of pleader to answer.

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.

Discovery.

121. At any time before the settlement of issues, either party may without any order for that purpose, and 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:

Power to deliver interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court.

122. Interrogatories delivered under section 121 shall be served in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80 and 81 shall, *mutatis mutandis*, apply to the serving officer.

Service of interrogatories.

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.

Inquiry into propriety of exhibiting interrogatories.

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 its 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.

Service of interrogatories on officer of corporation or company.

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.

Power to strike out interrogatories as irrelevant, &c.

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

Time for filing affidavit in answer.

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 *viva 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.

Procedure where a party omits to answer sufficiently.

Admission of Documents.

128. Either party may, by a demand made in writing, within a reasonable time, not being less than four 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.

Power to demand admission of genuineness of documents.

The demand shall be served through the Court in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80 and 81 shall, *mutatis mutandis*, apply to the serving officer.

The admission shall also be made in writing and filed in Court by the other party.

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

If such demand 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.

Production of Documents.

129. 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.

Power to order production of documents during suit.

130. Any party may apply to the Court for an order directing any other 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 or proceeding.

Application for order for discovery of document.

Every such affidavit shall specify which, if any, of the documents therein mentioned the declarant objects to produce.

Affidavit in answer to such order.

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 plaint, written statement or affidavits

Notice to produce for inspection documents referred to in plaint, &c.

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.

Consequence of non-compliance with such notice.

132. The party to whom such notice is given shall, within four 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.

Party receiving such notice to deliver notice when and where inspection may be had.

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.

Application for order of inspection.

134. Except in the case of documents referred to in the plaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application 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.

Application to be founded on affidavit.

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.

Power to order issue or question on which right to discovery depends to be first determined.

136. If any party fail to comply with any order under this chapter to answer interrogatories or for discovery or inspection, which has been served personally upon him, 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 defended;

Consequences of failure to answer or give inspection.

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 of documents, 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.

Court may send for papers from its own records or from other Courts.

Every application made under this section must, if the Court so require, be supported by an affidavit of the applicant or his pleader, showing how the record is material to the suit in which the application is made and that the applicant cannot obtain a duly authenticated copy of the record or such portion thereof as the applicant requires.

Production of Documents at first Hearing.

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 or other things specified in any order made under section 130 at any time before the hearing of the suit.

Documentary evidence to be produced at first hearing.

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.

Effect of non-production of documents.

140. The Court shall receive the documents produced by the parties at the first hearing.

Documents to be received by Court.

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.

Rejection of irrelevant or inadmissible documents.

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, and shall be filed as part of the record:

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

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 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.

Entries in shop-books.

142. When a document is rejected by the Court, it shall be endorsed in the manner specified in the last preceding section with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

Rejected documents to be marked,

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

and returned; unless detained by Court.

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.

Court may order any document to be impounded.

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:

After lapse of time for appeal, document admitted in evidence may be returned.

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:

When document may be returned before time limited.

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

Document not to be returned in certain cases.

145. 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.

Receipt to be given for returned document.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

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

Framing of issues.

They are of two kinds: (1) issues of fact, (2) 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 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.

Nothing in this section shall be deemed to require 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 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;

(*c*) the contents of documents produced by either party and placed on the record.

Court may examine witnesses or documents before framing issues.

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 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.

Power to amend, add and strike out 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.

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.

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

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,

(*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.

No such agreement shall be filed after the Court has recorded issues in the suit, unless the Judge, for some reason to be recorded under his hand, otherwise directs.

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

151. If the Court be satisfied, after making such enquiry 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 deliver 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, give 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 give judgment.

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

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 give judgment for or against such defendant, and the suit shall proceed only against the other defendants.

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

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 issue,

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 give 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.

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

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 give judgment, or if it is unable to give judgment by reason of additional evidence being required, or for any other cause, the Court shall frame and record, under section 146, the issues requiring to be determined.

Procedure where Court cannot give judgment at first hearing.

CHAPTER XIII.

OF ADJOURNMENTS.

Court may grant time, or adjourn hearing.

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.

Costs of adjournment.

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:

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 absolutely necessary for reasons to be recorded by the hand of the Judge.

Procedure if parties fail to appear on day fixed.

157. If, on any day to which the hearing of the suit is adjourned, the parties or either 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.

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

158. If either 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.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

Summons to attend to give evidence or produce documents.

159. The parties may, after the summons has been delivered for service on the defendant, if the summons be for the final disposal of the suit;

or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only,

obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such disposal or settlement, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce a document.

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

160. The person applying for a summons shall 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.

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

Procedure where insufficient sum paid in.

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.

Expenses if witness detained more than one day.

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.

Time, place, and purpose of attendance to be specified in summons.

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.

Summons to produce document.

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.

Power to require persons present in Court to give evidence.

Service of Summons on Persons required to give Evidence or produce Documents.

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.

Summons how served.

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.

Time for serving summons.

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:

Attachment of property of absconding witness.

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 cause 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 some conspicuous place of the house in which he is dwelling.

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 immovable 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.

If witness appears, attachment may be withdrawn.

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:

Procedure if witness fails to appear.

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.

Attendance of Witnesses and Consequence of Non-attendance.

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.

Court may of its own accord summon as witnesses strangers to suit.

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.

Persons summoned to give evidence must attend.

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.

When they may 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.

Consequences of non-attendance.

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 reasonable sum for expenses 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 for his appearance at such time and place as it thinks fit, and on such bail being given, may release him.

Consequences of refusal to give evidence or produce documents.

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.

Procedure when witness absconds.

176. If any party present in Court refuses, without lawful excuse, when required by the Court, to give evidence, or to produce such 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.

Consequence of refusal of party to give evidence when called on by the Court.

Nothing in this section enables the Court to decree a claim which on the face of the record is not warranted by law.

Explanation.—"Lawful excuse" means in this section such an excuse as, under the Indian Evidence Act, 1872, justifies a refusal to give the evidence or produce the document required.

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

Person summoned to attend in person if so required.

(*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 between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

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.

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

Proceedings on the Hearing.

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.

Statement and production of evidence by party having right to begin.

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

Rules as to right to begin.

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

Statement and production of evidence by other party.

The party beginning is then entitled to reply.

Reply by party beginning.

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 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 fresh evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on such fresh evidence; 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 hearing, and under the personal direction and superintendence, of the Judge.

Witnesses to be examined in open court.

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 shall, if necessary, be corrected, and shall be signed, by the Judge.

How evidence shall be taken in appealable cases.

183. 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.

Memorandum when evidence is not taken down by Judge.

184. Notwithstanding anything contained in section 182, the Local Government may by notification in the official Gazette permit the evidence of witnesses in any Court or class of Courts to be taken down by the Judge with his own hand in English, and may withdraw such permission,

Local Government may direct evidence to be taken down by Judge with his own hand.

and any Judge may take down the evidence with his own hand in English, if the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object.

185. If the evidence is taken down 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.

When witness may require his deposition to be interpreted.

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.

Any particular question and answer may be taken down.

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 upon the objection.

Questions objected to.

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

Remarks on demeanour of witnesses.

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.

Memorandum of evidence in unappealable cases.

190. If the Judge be rendered unable to take down evidence, or 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 evidence to be taken down, or the memorandum to be made in writing from his dictation in open Court.

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

Every memorandum so made shall form part of the record.

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 deal with evidence taken down by Judge removed before conclusion of suit.

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.

Power to examine witness immediately.

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.

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.

Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. The Court may at any time 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:

Power to order any point to be proved by affidavit.

Provided that where it appears to the Court that the other 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 may on the application of either party order the attendance for cross-examination of the declarant.

When evidence may be given by affidavit.

196. Affidavits shall be confined to such facts as the declarant is able of his 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.

Matters to which affidavits shall be confined.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

197. In the case of any affidavit under this Code—

Oath of declarant by whom to be administered.

(*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 inspecting the documentary evidence on the record, and examining or hearing the witnesses examined by the parties or their pleaders, and hearing the parties in person or by their respective pleaders or recognized 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.

Judgment when pronounced.

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.

Power to pronounce judgment written by Judge's predecessor.

200. The judgment shall be written in the language of the Court:

Judgment to be written in language of Court.

Provided that, if such language is not English or the Judge's mother-tongue, the judgment may be written in English or his mother-tongue.

Proviso.

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.

Translation of judgment.

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 on review.

Judgment to be dated and signed.

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

Judgments of Small Cause Courts.

The judgments 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.

Judgments of other Courts.

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.

Court to state its decision on each issue.

Exception.

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, of its own motion or on that of any of the parties, amend the 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.

Power to amend decree.

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.

Decree for recovery of portion of immoveable property.

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.

Decree for delivery of moveable property.

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 thinks proper 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 not exceeding six per centum per annum on the aggregate sum so adjudged, and on the costs of the suit, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

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.

Payment by instalments.

And on the application of the defendant at any time not more than six months after decree, the Court may order that the amount of the decree 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: provided that, before granting such application, reasonable notice in writing has been given to the plaintiff or his pleader, and that the Court has heard the objections, if any, made by the plaintiff or on his behalf.

Court may order payment by instalments.

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 favour the decree is made, or until the expiration of one year from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

In suits for land, Court may decree payment of mesne profits with interest.

Explanation.—'mesne profits' of property mean those profits which the person 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 enquiry into the amount of mesne profits, and dispose of the same on further orders.

Court may determine amount of mesne profits prior to passing decree, or may reserve enquiry.

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 enquiries to be taken and made, and give such other directions as it thinks fit.

Administration-suit.

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.

Explanation.—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 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.

Suit for dissolution of partnership.

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

If set-off be allowed.

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.

Effect of decree.

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

Certified copies of decree and judgment to be furnished.

CHAPTER XVIII.

OF COSTS.

217. 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.

Costs of applications.

218. 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.

Judgment to direct by whom costs are to be paid.

219. 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:

Power of Court as to costs.

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.

220. 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.

Costs may be set-off against sum admitted or found to be due.

221. 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.

Interest on costs.
Costs may be paid out of or charged on subject-matter of suit.

222. There shall be no appeal on a question solely relating to costs except on either of the following grounds (namely)

Questions of costs when appealable.

(*a*) that the costs are payable out of or chargeable on some property; or

(*b*) that the mode in which the costs have been given is inconsistent with some enactment for the time being in force.

Illustration.

A, an incumbrancer upon a certain estate, sues to compel the payment of his charge. The Court decrees him his principal and interest, but refuses his costs. A may appeal against this refusal, for every incumbrancer has a lien for his costs on the property charged.

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.

Court by which decree may be executed.

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 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.

Notice of every such application shall be served on the judgment-debtor, and the Court after hearing the objections which he or his pleader may urge against the application, may send the decree for execution accordingly.

And the Court to which a decree is sent 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 making it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, the Court making it may send to the local Court of Small Causes the copies and certificate respectively mentioned in clauses (*a*), (*b*) and (*c*) of section 225; and such Court shall thereupon execute the decree as if it had been passed by itself.

Provided that if the Court passing the decree is subordinate to a District Court, it shall send the decree to the District Court to which it is subordinate, and such Court shall deal with the decree as if it had been passed by itself.

224. 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 hereinafter provided within the jurisdiction of any Court in British India.

Decrees of Courts established by Government of India in Native States.

225. The Court desiring that a decree passed by itself shall be executed by another Court shall send such other Court,—

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

(*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.

Provided that if the Court passing the decree is subordinate to a District Court, it shall send such copies and certificate to the District Court to which it is subordinate, and such Court shall forward them to the Court by which the decree is to be executed.

226. The Court executing a decree 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 Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Court receiving copies of decree, &c., to file same without proof.

227. The copy of the decree and of any order for execution, when filed in the Court to which such copy has been sent for the purpose aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court.

Transmitted copy of decree or order to have same effect as decree of Court to which it is sent for execution.

228. 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.

Execution by High Court, of decree transmitted by other Court.

229. 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.

Appeal from orders for execution of decrees of other Courts.

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 provisions hereinbefore contained to another Court, then to such Court.

Application for execution.

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 former application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting such 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

(*b*) where the decree 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, or

(*c*) where the decree is for money and the decree-holder and the judgment-debtor have entered into an agreement in writing that the amount decreed, with such interest (if any) as may be therein mentioned, shall be discharged by such instalments as, if duly paid, will discharge the said amount and interest at some time within thirty years from the date of the decree, and such agreement has been filed in Court,—the date of the default in paying the instalment in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent any decree-holder from applying for execution of the same 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.

231. If a decree has been passed in favour 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 representatives in interest of the deceased.

Any one of several decree-holders may apply.

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 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:

Application by transferee of decree.

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 that 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.

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.

Transferee to hold subject to equities enforceable against original holder.

233. When the holder of a decree sent under the foregoing provisions for execution by a Court other than the Court which made it, applies for execution of the decree to the Court to which it has been so sent, such Court, or any subordinate Court to which the execution of the decree may be entrusted, shall proceed to execute the decree according to the provisions of this chapter so far as the same are applicable, and, so far as they are not applicable, according to its own rules in the like cases:

Enforcement of execution by Court applied to.

Such Court shall not enquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was passed had no jurisdiction to pass it.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply for its execution against the legal representative of the deceased.

If judgment-debtor die before execution, application may be made against his representative.

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 plaints, and shall contain in a tabular form the following particulars, (namely)—

Contents of application for execution of decree.

(*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 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 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.

Further particulars when application is for attachment of immoveable property.

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

237. If the property be land which, whether it pays revenue to Government or not, is 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.

When application must be accompanied by extract from Collector's register.

238. Every decree-holder applying for an attachment of any moveable property of the judgment-debtor shall annex to his application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of moveable property to be accompanied with inventory.

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;

When Court may stay execution.

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 the person pending the result of the application for such order.

240. Before passing an order to stay execution, or for the restitution of property or the discharge of the judgment-debtor under section 239, 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.

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.

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

Question to be decided by Court executing decree.

(*a*) questions regarding the amount of any mesne profits which by the terms of the decree have been directed to be adjusted in the execution of the decree;

(*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;

(*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 the decree.

D.—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 238, 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.

Explanation III.—This section does not apply unless

(*e*) both decrees are capable of execution at the same time;

(*f*) the parties are the same; 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 the last order 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 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. The warrant for the execution of the decree shall bear the date of the day on which it is issued, and shall be signed by the Judge or such officer as the Court appoints in this behalf, and shall be sealed with the seal of the Court, and delivered to the proper officer to be executed.

Date, signature, seal and delivery.

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. Where a decree is against partners in the name of the firm, execution may issue in manner following:—

Decree against partners in name of firm.

(*a*) against any property of the partners as such:

(*b*) against any person who has admitted in the suit that he is or has been adjudged to be a partner:

(*c*) against any person who has been served as a partner, with the summons, and has failed to appear.

If the decree-holder claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court for leave so to do; and the Court may give such leave if notice of the application has been served on such other person and the liability to execution is not disputed, or, if such liability is disputed, may try and determine the same in any manner in which any issue or question in a suit may be tried and determined.

255. Every decree or order directing a party to pay money, whether by way of compensation, or costs, or otherwise, shall 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.

Explanation.—A decree for mesne profits or any other matter, the amount of which, in money, is to be subsequently determined, is a decree for money within the meaning of this section.

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.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

257. Payment of a sum of money ordered to be paid as the alternative to some other relief granted by the decree shall be enforced in manner hereinbefore provided for the execution of a decree for money.

Order for payment of money as an alternative.

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

Modes of paying money under decree.

(*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.

If the money is paid out of Court or the decree is otherwise adjusted to 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 or his pleader may, within eight days of the date of payment, apply to such Court for an order compelling the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder or his pleader, may make such order.

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 shall 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.

Decree for specific moveables, or recovery of wives.

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.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, 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.

Decree for specific performance or restitution of conjugal rights.

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.

Decree for execution of conveyances, or endorsement of negotiable instruments.

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 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.

Form and effect of execution of conveyance by Court.

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

Decree for immoveable property.

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receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

Delivery of immoveable property when in occupancy of tenant.

264. If the decree be for 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.

Partition of estate or separation of share.

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.

E.—Of Attachment of Property.

Property liable to attachment and sale in execution of decrees.

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, hundís, 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, 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 necessary wearing apparel of the judgment-debtor, his wife and children:

(*b*) tools of artizans, implements of husbandry and cattle kept *bonâ fide* for agricultural purposes:

(*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*) the right to perform the service of an idol:

(*g*) stipends allowed to military and civil pensioners of Government, and political pensions:

(*h*) 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 labourers and domestic servants:

(*k*) an expectancy of succession by survivorship:

(*l*) a right to future maintenance.

Provided also that nothing in this section shall be deemed 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.

Power to summon and examine persons as to property liable to be seized.

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.

Attachment of debt, share and other property not in possession of judgment-debtor.

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 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.

Attachment of moveable property in possession of defendant.

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, the proper officer may sell it at once.

Power to make rules for maintenance of attached livestock.

The Local Government may from time to time make rules for the maintenance and custody, while under attachment, of livestock 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 negotiable instruments.

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.

Seizure of property in house.

271. If the person executing any process under this Code directing or authorising 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.

Seizure of property in zanánás.

Attachment of property deposited in Court or with Government officer.

272. If the property be deposited in, or 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:

Proviso.

Provided that, if such property is deposited in 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 the Court in which such property is deposited.

Attachment decree.

273. If the property be a decree 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 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 execute its decree and to apply the proceeds in satisfaction of the decree sought to be executed. The Court receiving such notice shall comply with such request. And the holder of any decree attached under this clause shall be bound to give the Court executing the same such information and aid as may reasonably be required.

Attachment of immoveable property.

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

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

A copy of the proclamation shall also be fixed up in the office of the Collector of the District in which the land is situate.

Order for withdrawal of attachment after satisfaction of decree.

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.

Private alienation of property after attachment to be void.

276. When an attachment has been made by actual seizure or by written order duly intimated or 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.

Court may direct coin or currency-notes attached to be paid to party entitled.

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.

Investigation of claims to and objections to attachment of attached property.

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.

Evidence to be adduced by claimant.

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.

Release of property from attachment.

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.

Disallowance of claim to release of property attached.

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.

Continuance of attachment subject to claim of incumbrancer.

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

Saving of suits to establish right to attached property.

283. An order under section 280, 281 or 282 shall not preclude the person against whom it is made from instituting a suit to establish the right which he claims to the property in dispute.

Claims and objections to be made without delay.

284. A claim to attached property, or an objection to the attachment of such property, shall be made without delay to the Court which ordered the attachment;

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

Power to order property attached be sold, and proceeds be paid to person entitled.

285. Any Court may order that any moveable property, and any Court not subordinate to a District Court may direct that any immoveable 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.

F.—Of Sale and Delivery of Property.

(a)—General Rules.

Sales by whom conducted and how made.

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.

Proclamation of sales by public auction.

287. When any interest in 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 interest to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, when the interest 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 interest 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.

Rules to be made by High Court.

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.

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

Indemnity of judges, &c.

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.

Mode of making proclamation.

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 notification shall also be published in the official Gazette and in some local newspaper.

Time of sale.

290. Except in the case of articles subject to speedy and natural decay (which may be sold at once), no sale under this chapter shall 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.

Power to adjourn sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale; and every such sale shall be stopped if, before the lot is knocked down, the debt and costs 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.

Stoppage of sale on tender of debt and costs, or on proof of payment.

Officers concerned in execution sales not to bid for or buy property sold.

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

Defaulting purchaser answerable for loss by re-sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code, 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.

Decree-holder not to bid for or buy property without permission.

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.

If decree-holder purchase, amount of decree may be taken as payment.

When a decree-holder purchases with such permission, the amount due on the decree may be taken as payment in whole or in part, as the case may be, of the purchase-money.

Proceeds of execution sale to be divided rateably among decree-holders.

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 for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the proceeds, after deducting the costs of the realization, shall be divided rateably among all such persons:

Proviso where property is sold subject to mortgage.

Provided that, when any property is sold subject to a mortgage, the mortgagee 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, the Court may, with the assent of the mortgagee, order that the property be sold free from the mortgage, giving to the mortgagee 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.

Rules as to negotiable securities and shares in public Companies.

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.

Payment for moveable property sold.

297. If the property sold be moveable, 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.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

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.

Delivery of moveable property belonging to defendant actually seized.

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

Delivery of moveable property to which judgment-debtor is entitled subject to lien.

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.

Delivery of debts and of shares in public Companies.

301. When the property 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.

Transfer of negotiable instruments and shares.

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 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.

(c).—Rules as to Immoveable Property.

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

303. Sales of immoveable property in execution of a decree may be ordered by any Court not subordinate to a District Court.

Procedure as to sale of land in execution of decree of subordinate Court.

304. Whenever a Court subordinate to a District Court desires that any interest in immoveable property be sold in execution of a decree, it shall refer the case to the District Court to which it is subordinate, and such Court shall have the same power of causing the said interest to be sold as if the decree had been made by itself.

Nothing in this section applies to Courts of Small Causes.

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

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court conducting the sale 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.

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.

Where such certificate has been granted and so long as it remains in force, the provisions of section 248 shall not apply, and the year mentioned in that section, clause (*a*), shall be computed from the date of the expiry of the certificate.

The Court may, on the application of the judgment-debtor, sell any other immoveable property of the judgment-debtor in lieu of the property comprised in such order.

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 sunset of 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 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, if the lot has been knocked down to a stranger, any co-sharer may, by application to the officer conducting the sale, claim to take the share sold at the sum at which the lot was so knocked down.

Co-sharer of a share of undivided estate sold in execution may claim share at sale-price.

If the claim be made before sunset on the day of sale, and the claimant then repay to the purchaser the amount of his deposit, the claimant shall be substituted for the person to whom the lot has been so knocked down, and shall be bound by all the conditions that attached to the [illegible]

and the provisions of the last three preceding sections shall apply.

311. Any person whose interest in 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;

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

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.

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.

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 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, within sixty days from the date of the sale, apply to the Court to set aside the sale on the ground that the person whose interest in the property purported to be sold had no legally saleable interest therein, and the Court may make such order as it thinks fit.

Power to apply to set aside the sale.

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

Confirmation of sale.

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

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

or when it is found that the judgment-debtor had no saleable interest in the property 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 the purchaser a certificate to the effect that he has purchased such property, and such certificate shall be deemed to be a valid transfer of such interest.

Certificate to purchaser of immoveable property.

317. The certificate shall state the name of the person who, at the time of sale, is declared to be the purchaser and the date of the attachment; and the purchase shall be deemed to take effect from such date.

Certificate to state name of actual purchaser.

No person shall maintain any suit against the certified purchaser on the ground that the purchase

Resale if purchaser not [illegible]

was made on behalf of such other person, or on behalf of some one through whom such other person claims.

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 defendant subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall 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 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 interest in immoveable property to be sold, shall be transferred to the Collector; and rescind or modify any such declaration. 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.

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

321. Whenever the execution of a decree has been so transferred, if the Collector has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such interest, 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) as he thinks fit not exceeding the rate of six per cent. per annum,

Powers of Collector as to execution of decrees so transferred.

(*a*) by selling part of the judgment-debtor's interest in such property or in any other immoveable property:

(*b*) by mortgaging the whole or any part of such interest:

(*c*) by letting on farm, or managing by himself or another, the whole or any part of such interest for any term not exceeding twenty years from the date of the order of sale, or

(*d*) 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 interest, the Collector may exercise all the powers of its owner.

322. If the Collector proposes to proceed under this section 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 the publication.

Procedure of Collector.

Such notice shall be published by being posted at the Court which made the order under section 303, and at such other places (if any) as the Collector thinks fit.

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

323. If on the expiration of 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 judgment-debtor's interest in 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 interest accordingly.

Sale by Collector.

324. Whenever the Collector sells any interest pursuant to the said order of sale or exercises any of the powers conferred upon him by the last preceding section, 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 interest, and shall hold the balance at the disposal of such Court.

Sale, &c., to be reported to Court by Collector.

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

Application of balance.

325. 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 make provision for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of sections 321 to 324 (both inclusive) shall in such case apply to the Collector.

When Court may authorize Collector to stay public sale of land.

326. 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, or prohibiting such sales

Local rules as to sales of land in execution of decrees for money.

(*a*) where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

(*b*) where for reasons of State the Local Government thinks that such class of interests should not be compulsorily transferrable:

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

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

G.—Of Resistance to Execution.

327. If in the execution of a decree for the possession of property, the officer entrusted 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.

Procedure in case of obstruction to execution of decree.

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.

328. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, on the ground that the property is not comprised in the decree or on any other ground, the Court shall enquire into the matter of the complaint, and pass such order as it thinks fit.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. 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 effectual 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 proceedings to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for the punishment of such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term not exceeding thirty days, and direct that the decree-holder be put into possession of the property.

Procedure when obstruction continues.

330. 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;

Obstruction by claimant in good faith, other than judgment-debtor.

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 of 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, section 9,

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

331. 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 *bonâ 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.

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

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, section 9,

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.

332. The order passed under either of sections 330 and 331 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 330 and 331 to have force of decrees, and to be subject to appeal.

333. 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.

334. 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 enquire into the matter of

Obstruction by claimant other than defendant.

the resistance or obstruction, and pass such order thereon as it thinks fit.

The party against whom such order is passed may bring a suit to establish his right to the present possession of the property at any time within one year from the date of such order.

H.—Of Arrest and Imprisonment.

335. 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 jail of the district in which the Court ordering the imprisonment is held, or, when such jail does not afford suitable accommodation, in any other jail 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.

Provided 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.

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 the judgment-debtor express his intention so to apply, and if he furnish sufficient security for his appearance at any time when called upon, the Court shall release him from arrest.

336. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court.

Warrant for arrest to direct judgment-debtor to be brought up.

337. A day shall be specified in the warrant on or as soon as possible after which it is to be returned,

Latest day for return of warrant to be specified.

and unless the amount which the judgment-debtor has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid, such officer shall bring him before the Court with all convenient speed.

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.

Scales of subsistence allowances.

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.

Judgment-debtor subsistence-money.

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.

Subsistence money to be added to amount of decree.

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

341. The judgment-debtor shall be discharged from jail,

Release of judgment-debtor.

(*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 cannot be re-arrested under the decree in execution of which he was imprisoned.

342. No person shall be imprisoned in execution of a decree for a longer period than six months;

Imprisonment not to exceed 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.

When not to exceed six weeks.

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.

Endorsement on warrant.

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.

Power to apply to be declared an insolvent.

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 place 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,

(*a*) order him to be immediately committed to jail; or

(*b*) leave him in the custody of the officer of Court 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 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 within two months next before the date of 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 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 frame a schedule of the persons who have proved themselves to be the insolvent's creditors, and of their respective debts; and the declaration under section 351 shall be deemed to be a decree in favour 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.

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 he 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.

Effect of order appointing Receiver.

354. Every order under section 351 shall be published in the 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.

Receiver to give security and collect assets.

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;

Discharge of insolvent.

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.

Duty of Receiver.

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;

His right to remuneration.

and such Receiver may retain as a remuneration for the performance of his duties a commission at 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

Delivery of surplus.

shall deliver the surplus, if any, to the insolvent or his legal representative.

Effect of discharge.

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.

When Court may declare insolvent absolved from further liability.

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.

Procedure in case of dishonest applicant.

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 not exceeding 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.

Investment of other Courts with powers of District Courts.

Transfer of cases.

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.

(*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.

Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.

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.

Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.

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.

Proceeding where no application made by representative of deceased plaintiff.

364. If no application be made to the Court within a reasonable time not exceeding thirty days 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, 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.

Proceeding in case of death of sole, or sole surviving, plaintiff.

366. If no such application be made to the Court within a reasonable time not exceeding thirty days 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;

Abatement where no application by representative of 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 and for proceeding with the suit in order to a final determination of the matter in dispute.

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.

Procedure in case of dispute as to representative of deceased plaintiff.

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,

Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.

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 the wife alone.

Suit not abated by marriage of female party.

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.

When plaintiff's bankruptcy or insolvency bars suit.

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, within eight days after such neglect or refusal, apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be recovered from the plaintiff's estate.

Procedure when assignee fails to continue suit or give security.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Effect of abatement on parties' rights.

But the person claiming to be the 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.

Application to set aside abatement or dismissal.

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.

Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the suit, but before judgment, 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 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.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

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 mutual 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, and such decree shall be final.

Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

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.

Deposit by defendant of amount in satisfaction of 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 file in Court a statement to that effect, 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.

Procedure where he accepts it as satisfaction in full.

Illustrations.

(*a*). A owes B Rs. 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 shewn that the litigation was necessary.

(*c*). A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 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. When the plaintiff ordinarily resides out of British India, and does not possess any sufficient immoveable property within British India independent of the property in suit, he shall, if any defendant so requires, on presenting the plaint or within such time as the Court may fix, furnish security for the payment of the costs that may be incurred by the defendant.

When security for costs is to be furnished by plaintiff on presenting plaint.

381. If 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 such plaintiff or plaintiffs does not or do not possess any sufficient immoveable property within British India independent of the property in suit, the Court may, 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 such defendant.

When security for costs may be required from plaintiff at any stage of suit.

In the event of such security not being furnished within the time so fixed, the Court shall pass a decree against the plaintiff or plaintiffs by default, unless he or they be permitted to withdraw from the suit under the provisions of section 373.

Procedure where requisition is not complied with.

382. A person is considered to be resident out of British India, within the meaning of sections 380 and 381 who 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.

Residence out of British India.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Any Court may by order 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 proceeding 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 issuing the commission thinks proper to appoint to execute the same:

When witness resides within Court's jurisdiction.

Provided that where the Court issuing the commission is subordinate to a District Court, and is not a Court of Small Causes, the exercise of the power conferred by this section shall be subject to such rules as the District Court may from time to time prescribe, as to the officers or persons to whom commissions may be issued.

386. Any District Court and any Court of Small Causes may issue a commission for the examination of—

When witness resides beyond Court's jurisdiction, but in British India.

(*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.

If the suit in which it is desired to issue such commission be pending in any Court (other than a Court of Small Causes) subordinate to the District Court, the District Court may issue it on the application of such subordinate Court.

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. In the case of a person residing at any place not within British India, the Court, if satisfied that the evidence of such person is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a commission for his examination.

When witness is not within British India.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

Court to examine witness pursuant to commission.

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 form part of the record of the suit.

Commission when executed to be returned to Court issuing it with depositions of witnesses.

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

When depositions may be read in evidence.

(*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.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by

Provisions as to execution and return of commissions to apply to commissions issued by Foreign Courts.

(*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.

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:

Commission to make local investigations.

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.

393. The Commissioner, unless otherwise directed by the order of appointment, may 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.

Commissioner may examine parties and witnesses and call for papers.

The Commissioner may also call for and examine documents and other papers relevant to the subject of enquiry.

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.

394. 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.

Report and depositions to be evidence in suit.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

395. 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.

Commission to investigate and adjust accounts.

396. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

Court to give Commissioner necessary instructions.

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his examination.

397. 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 enquiry as is requisite.

Proceedings of Commissioner receivable in evidence.

Power to make further enquiry.

D.—General Provisions.

398. 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.

Expenses of Commission to be paid into court.

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 situated beyond, the limits of British India.

Attendance, examination and punishment of witnesses before Commissioner.

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.

Procedure *ex parte* where parties do not appear.

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.

Suits may be brought *in formâ pauperis*.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed for 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.

What suits excepted.

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.

Application to be in writing.

Contents of application.

404. Notwithstanding anything contained in section 40, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under section 642 or 643, 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 shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Presentation of application.

405. If the application be not framed or presented in the manner laid down in sections 403 and 404, the Court shall reject it.

Rejection of application.

406. If the application be in form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant

Examination of 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.

I presented by agent, Court may order applicant to be examined by Commission.

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,

the Court shall reject the application.

Notice of day for receiving evidence of applicant's pauperism.

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.

Procedure at hearing.

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.

Procedure if application admitted.

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 for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Costs when pauper succeeds.

Recovery of court-fees.

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 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.

Procedure when pauper fails.

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.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

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.

Dispaupering.

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.

Costs.

415. The costs of an application for permission to sue as a pauper and of an enquiry into pauperism are costs in the suit.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

Suits by or against Secretary of State in Council.

416. Suits by or against the Government shall be brought by or against (as the case may be) the Secretary of State for India in Council.

Courts in which such suits shall be instituted.

No suit against the Secretary of State for India in Council and no suit against a public officer for any act alleged to be done by him in his official capacity shall be instituted in any Court inferior to a District Court. Any such suit may be transferred by order of the Court in which it is instituted to any Court subordinate thereto, and otherwise competent to entertain such suit.

Nothing contained in the second paragraph of this section shall affect suits to which Government is a party, the trial whereof is provided for by any local law.

Persons authorized to act for Government.

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.

Plaints in suits by Secretary of State in Council.

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."

Agent of Government to receive process.

419. The person appointed to act as pleader on the part of Government in any Court, shall be the agent of the Government for the purpose of receiving processes against the Government or the said Secretary of State in Council, issuing out of the Court in which such person may be the pleader of Government.

Service on Government Pleader.

420. If the suit be against the said Secretary of State in Council or against a public officer for any such act as aforesaid, the summons shall be served on the Government Pleader of the Court in which the suit is instituted, or on any other person appointed to receive process on behalf of the Government.

Appearance and answer by Secretary of State in Council.

421. 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.

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.

Service on public officers.

422. If the defendant be 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 shall appear to the Court that the summons may be most conveniently so served.

Extension of time to enable officer to make reference to Government.

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.

Notice previous to suing Secretary of State in Council or public officer.

424. No suit shall be instituted under this chapter 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, 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.

Unless such notice is proved, the Court shall find for the defendant.

Every suit against a public officer for compensation for an act alleged to be done in his official capacity shall be commenced within six months next after the cause of action arises, and not afterwards.

Application where Government undertakes defence.

425. If the Government undertake the defence of a suit under this chapter 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.

Procedure where no such application made.

Defendant not liable to arrest before judgment.

426. 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.

Exemption of public officers from personal appearance.

427. If in a suit under this chapter against a public officer the Court requires the personal appearance of the defendant, and the defendant satisfies the Court that he cannot absent himself from his duty without detriment to the public service, the Court shall exempt him from appearing in person.

Procedure where decree is against Government or a public officer.

428. 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 decree mentioned in this section unless it remains unsatisfied for the period of three months computed from the date of the report.

Performance of Government Pleader's functions.

429. Where there is no Government Pleader the functions imposed by this chapter on the Government Pleader may be performed by such officer as the Local Government generally or specially appoints in this behalf.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

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.—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 this section, be deemed to be an alien enemy.

431. A foreign State may sue in the Courts of British India, provided that—

When a foreign State may sue.

(*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.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

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 otherwise) be sued in any competent Court not subordinate to a District Court:

Suits against Sovereign Princes, &c.

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 suit is for the determination of any right to, or interest in, immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

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.

Sovereign Princes, &c., exempt from arrest.

When their property may be attached.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

Execution in British India of decrees of Courts of Native States.

(*a*) declare that the decrees of Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, 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.

Subscription and verification of plaint.

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

Service on Corporation or Company.

(*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 to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Representation of beneficiaries in suits concerning property vested in trustees, &c

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Joinder of executors and administrators.

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.

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.

Husband of married executrix not to join.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

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

Minor must sue by next friend.

of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

Costs.

441. Every application to the Court on behalf of a minor (other than an application under section 450) shall be made by his next friend, or his guardian for the suit.

Applications to be made by next friend or guardian *ad litem*

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 in writing of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Plaint filed without next friend to be taken off the file.

Costs.

443. Where the defendant to a suit, or respondent to an application, 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 and management of the case.

Guardian *ad litem* to be appointed by the Court.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

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, 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.

Order obtained without next friend or guardian may be discharged.

Costs.

445. Any person, being *sui juris*, 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 or respondent in or to the suit or application.

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 or respondent whose interest is adverse to that of such minor, as to make it unlikely that the interest of such minor will be properly protected by him, or if he does not do his duty, or, pending the suit or application, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of such minor or by a defendant or respondent for his removal, and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly and a guardian for the suit to be substituted.

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.

448. 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.

449. On the death or removal, as aforesaid, of a next friend, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

450. 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.

451. On the appointment of a new next friend his name as such shall thenceforth be inserted in the proceedings.

Name of new next friend to be inserted in proceedings.

452. Before the name of any person can be used as the next friend of a minor, he shall sign a written authority to the pleader for that purpose, which authority shall be filed in Court.

Written authority to act for next friend to be filed.

453. 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.

Course to be followed by minor plaintiff or applicant on coming of age.

If he elects to proceed with it, he shall obtain 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."

If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, obtain an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

When minor sole plaintiff, or sole applicant.

Costs.

In either case the application may be made by petition *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff or co-applicant, on coming of age, and desiring to repudiate the suit or application, must apply to have his name struck out as co-plaintiff or co-applicant.

When minor co-plaintiff or co-applicant.

The application shall be by summons to the next friend, as well as to the defendant or respondent; 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 or matter, shall be paid by such persons as the Court directs.

Costs.

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 or sole applicant, apply to have the suit dismissed.

When suit or proceeding unreasonable or improper.

The application shall be by summons to 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 any thing done in the suit.

Costs.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. The petition must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit or application, adverse to that of the minor, and that he is a fit person to be so appointed.

Petition for appointment of guardian *ad litem*.

457. A co-defendant or co-respondent, if *sui juris*, may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a party applicant, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit dies pending a suit or application against a minor, a new guardian shall be appointed in his place.

On death of guardian, *pendente lite*, new guardian to be appointed.

459. If the guardian for the suit of a minor defendant or respondent 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.

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, and the decree-holder shall serve on such guardian notice in writing 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 such next friend or guardian for the suit shall 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 without the leave of the Court.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

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 Court under any local law.

Wards of Court.

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.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

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 depôt, 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.

Person so authorized may act personally or appoint pleaders.

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 it had been served on the party in person or on his pleader.

Service on person so authorized, or on his pleader, to be good service.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to the commanding officer of such officer or soldier for the purpose of being served on him.

Service on officers and soldiers.

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 indorsed 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 bázár, the officer charged with the execution of such warrant shall deliver the same to the commanding officer.

Execution of warrant of arrest in cantonments, &c.

The commanding officer shall back the warrant with his signature, and shall cause the person named therein to be arrested if within the limits of his command, and delivered to the officer so charged of the warrant.

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.

When interpleader suit may be instituted.

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 plaint must, in addition to the other statements necessary for plaints, state—

Plaint in such suit.

(*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.

Payment of thing claimed into Court.

473. At the first hearing the Court may

Procedure at first hearing.

(*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 that a decree has been made in the interpleader suit in favour of the stakeholder, 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.

OF PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

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—

When plaintiff may apply that security be taken.

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

5 *a*

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.

Procedure in case of application by surety to be discharged.

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.

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 an 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 for a longer period than six months.

Procedure where defendant fails to give security or find fresh security.

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.

Subsistence of defendant arrested.

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,

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

(*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, contain a specification of the property required to be attached, and the estimated value thereof.

Contents of application.

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 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.

Court may call on defendant to furnish security or show cause.

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.

Attachment if cause not shown or security not furnished.

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 ordered to be attached, the Court shall order the attachment to be withdrawn.

Withdrawal of attachment.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

Mode of making attachment.

487. If any claim be preferred to the property attached before judgment, such claims shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

Investigation of claims to property attached before judgment.

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.

Removal of attachment when security furnished.

489. Attachment before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of attachment in execution of the property under such decree.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

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.

Property attached under this chapter, not to be re-attached in execution of decree.

C.—Compensation for improper Arrests or Attachments.

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 appliedf or on insufficient grounds,

Compensation for obtaining arrest or attachment on insufficient grounds.

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 occasioned to him by the arrest or attachment:

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

Proviso.

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.

492. If in any suit it be proved by affidavit or otherwise

Cases in which temporary injunction may be granted.

(*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 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.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, and whether compensation be claimed in 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 the repetition or the continuance of the breach of contract or wrongful act complained of, or the committing of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

Injunction to restrain repetition or continuance of breach.

Such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit.

In case of disobedience, an injunction granted under this section or section 491 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 may in all cases, and shall in all cases except where it appears to the Court that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice in writing 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.

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.

Order for injunction may be discharged, varied or set aside.

497. If it appears to the Court that the injunction was applied for on insufficient grounds, or

Compensation to defendant for issue of injunction on insufficient grounds.

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 occasioned 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.

Proviso.

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.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.

(*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, authorise 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, authorise 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 authorised 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.

Application for such orders to be after notice.

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, forms 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;

When party may be put in immediate possession of land, the subject of suit.

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.

Deposit of money, &c., in Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS AND DEPOSIT IN COURT.

503. Whenever it appears to the Court to be necessary for the preservation or the better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may

Power of Court to appoint Receivers.

(*a*) appoint a Receiver of such property,

and may, 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 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.

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.

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. But whenever the Judge of a Court subordinate to a District Court considers it expedient to appoint a Receiver in any suit before him, he shall refer the case to the District Court with his opinion to that effect, and the District Court shall make such order thereon as it thinks fit.

Courts empowered under this chapter.

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,

Parties to suit may apply for order of reference.

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.

Nomination of arbitrator.

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.

When Court to nominate 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.

Order of reference.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except in the case provided for by section 512, or unless, owing to the death, refusal, neglect, incapacity or departure from India of the arbitrator, the reference be fruitless, in which case the Court may issue an order superseding the arbitration and restoring the suit to the file of the Court.

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,

When reference is to two or more, order to provide for difference of opinion.

(*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 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, if any of the parties so desire, may 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.

Death, incapacity, &c., of arbitrators or umpire.

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, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Appointment of umpire by Court.

512. Every arbitrator or umpire appointed under sections 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

Powers of arbitrator or umpire appointed under sections 509, 510, 511.

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.

Summoning witnesses.

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.

Punishment for default, &c.

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.

Extension of time for making award.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators

When umpire may arbitrate in lieu of 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 an award in a suit has been made, the persons who made it shall sign it and file it in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing of the award shall be given to the parties.

Award to be signed and filed.

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.

Arbitrators or umpire may state special case.

518. On the application of either of the parties, the Court may, by order, modify or correct an award,

Court may, on application, modify or correct award in certain cases.

(*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, on the application of any of the parties or of the persons making the award, make such order as to

Order as to costs of arbitration.

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. In any of the following cases 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, that is to say:—

When award or matter referred to arbitration may be remitted.

(*a*) if the award has left undetermined any of the matters referred to arbitration, or if it determine any matter not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if 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)—

Grounds for setting aside award.

(*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 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,

Judgment to be according to award.

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.

Decree to follow.

523. When any persons by an instrument in writing agree 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 such Court.

Agreement to refer to arbitration may 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.

Application to be numbered and registered.

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.

Notice to show cause against filing it.

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 all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of this chapter applicable to proceedings under order of reference.

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 whole matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of 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.

Application to be numbered and registered.

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.

Notice to parties to arbitration.

526. If no sufficient cause be shown against the award, the Court may order it to be filed, and such award may then be enforced as a decree upon an award made under the provisions of this chapter.

Filing and enforcement of such award.

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

Power to state case for Court's opinion.

(*a*) that upon the finding of the Court in the affirmative or negative of such question, 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*) that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(*c*) that one or more of the parties shall do or perform, or refrain from doing or performing 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 questions raised thereby.

528. If the agreement is for the delivery of any property, or for the doing or performing, or the refraining from doing or performing, 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.

When value of subject-matter must be stated.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court of the lowest grade having jurisdiction in the matter to which it relates, and, when so filed, 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 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.

Agreement to be filed and numbered as a suit.

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.

Parties to be subject to Court's jurisdiction.

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.

Hearing and disposal of the case.

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 of fact or law stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to deliver 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. 168, or in such other form as the High Court may from time to time prescribe.

Institution of summary suits upon bills of exchange, &c.

In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear to 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 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 *primâ facie* sustainable, or feels reasonable doubt as to its good faith.

Payment into Court of sum mentioned in summons.

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 *primâ facie* right to recover.

533. The Court shall, upon application within the period of seven days from the service of such summons, 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.

Defendant showing defence on merits to have leave to appear.

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.

Power to set aside decree.

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.

Power to order bill to be deposited with officer of Court.

536. The holder of every dishonoured 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 dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Recovery of cost of noting non-acceptance of dishonoured bill.

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.

Procedure in suits under this chapter.

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

(*a*) High Courts established under Royal Charter;

(*b*) the Chief Court of the Panjáb;

(*c*) the Court of the Recorder of Rangoon;

(*d*) the Courts of Small Causes in the Presidency Towns;

(*e*) the Court of the Judge of Karáchi; and

(*f*) any other Court 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.

PART VI.

OF APPEALS.

CHAPTER XL.

OF APPEALS FROM ORIGINAL DECREES.

Appeal to lie from all original decrees, except when expressly prohibited.

539. 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.

Form of appeal.

Memorandum to be accompanied by copy of decree and judgment.

540. The appeal shall be made in the form of a memorandum in writing presented by the appellant or his pleader, and shall be accompanied by a copy of the decree appealed against and of the judgment on which it is founded.

Memorandum of appeal.

541. The memorandum of appeal 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.

Appellant confined to grounds set out.

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:

Provided that the Court shall not rest its decision on any ground set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection of memorandum or grounds of objection.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, such memorandum or grounds may be rejected or 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.

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.

One of several plaintiffs or defendants may obtain reversal of whole decree if it procee on ground common to all.

544. If there be more plaintiffs or more defendants than one in a suit, and the decree appealed against proceed 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 reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

Illustrations.

(*a*). A sues B and C on a promissory note. The defendants plead payment. The Court decrees in favour of A. B alone appeals. The Appellate Court, holding that payment has been made, may reverse the decree in favour of both B and C.

(*b*). A sues B and C on a promissory note. B pleads payment and C pleads the Limitation Act. The Court overrules both pleas and decrees in favour of A. B alone appeals. The Appellate Court may be of opinion that payment has been made, but cannot, on B's appeal, reverse the decree as regards C.

Of staying and executing Decrees under Appeal.

Execution of decree not stayed solely by reason of 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.

Stay of execution of appealable decree before time for appealing has expired.

If an application be made for the execution of a decree which is open to appeal, before the time allowed for appeal has expired, the Court may for sufficient cause order the execution to be stayed.

Provided that no order shall be made under this section unless the Court 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

Security required before making order to stay execution.

(*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 in case of order for execution of decree appealed against.

546. If an order is made for the execution of a decree against which an appeal has been preferred, the Court which passed the decree may, on sufficient cause being shewn by the appellant, require security to be given for the restitution of any property which may be taken in

execution of the decree, or 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.

No such security to be required from Government or public officers.

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 from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Of Procedure in Appeal from Decrees.

Registry of memorandum of appeal.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of admission, and shall register the appeal in a book to be kept for the purpose.

Register of appeals.

Such book shall be called the Register of Appeals.

Appellate Court may require appellant to give security for costs.

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 either of the appeal, or of the original suit, or of both:

When appellant resides out of British India.

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 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.

Transmission of papers to Appellate Court.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court to which such notice is sent shall, upon the receipt thereof, transmit with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court;

Power to confirm decision of lower Court without sending it notice.

Provided that 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.

Copies of exhibits in Court whose decree is appealed against.

551. Either party may make an application in writing to the Court against whose decree the appeal is made, specifying any papers of which he requires copies to be made and deposited in such Court; and copies of such papers shall be prepared at the expense of the applicant, and shall be deposited accordingly.

Day for hearing appeal.

552. The Appellate Court shall fix a day for hearing the appeal.

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 a sufficient time to enable him to appear and answer the appeal on such day.

Publication and service of notice of day for hearing appeal.

553. Notice of the day so fixed shall be stuck up in the appellate courthouse, 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 his pleader in the manner provided in chapter VI for the service of a summons to a defendant 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.

Appellate Court may itself cause notice to be served.

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.

Contents of notice.

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*.

Procedure on Hearing.

Right to begin.

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.

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.

Dismissal of appeal for appellant's default.

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.

Hearing appeal *ex parte*.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

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:

Proviso.

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.

Re-admission of appeal dismissed for default.

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.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

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.

Re-hearing on application of respondent against whom *ex parte* decree is made.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may, within thirty days of the date of the decree, 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.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

561. Any respondent, though he may not have appealed against any part of the decree, may, upon the hearing, take any objection to the decree which he could have taken by way of appeal, provided he has given through the Court to the appellant seven days' notice of such objection.

Such notice shall be in the form of a memorandum, and the provisions of sections 540, 541 and 542, so far as they relate to the form and contents of the memorandum of appeal, shall apply to such notice.

Form of notice, and provisions applicable thereto.

A respondent cannot by such notice raise questions between himself and any party to the suit, other than the appellant.

Remand of case by Appellate Court.

562. If without going into the merits, 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, remand the case, together with a copy of the decree or 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

(*a*) to proceed to investigate the suit on the merits, and pass a decree thereon; or

(*b*) to try a particular issue; or

(*c*) to take certain specified evidence.

When further evidence barred.

563. When a case is remanded with directions to take such evidence, 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.

Limit to remand.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

When evidence on record sufficient, Appellate Court shall determine case finally.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court may, if necessary, resettle the issues, and shall 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 Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

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,

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.

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.

Objections to finding.

Determination of appeal.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Production of additional evidence in Appellate Court.

568. The parties to an appeal shall not be entitled to produce additional 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 reason for the admission shall be recorded on the proceedings of the Court.

Mode of taking additional evidence.

569. Whenever additional evidence is allowed to be received, the Appellate 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.

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, 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.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which a 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.

Language of judgment.

572. The judgment shall be written in English; provided that if English is 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.

Translation of judgment.

573. When the language in which the judgment is written is not the language 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, 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.

Decision when appeal is heard by two or more Judges.

575. When the appeal is heard by a Bench of two or 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.

Dissent to be recorded.

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 decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

What judgment may direct.

577. The judgment may be for confirming, varying, or reversing the decree 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.

No decree to be reversed or modified for error or irregularity.

578. No decree shall be varied or reversed 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.

Of the Decree in Appeal.

Contents of decree.

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:

Judge dissenting from judgment need not sign decree.

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.

Copies of judgment and decree to be furnished to parties.

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

Certified copy of decree to be sent to Court whose decree is appealed against.

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 suit.

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, in respect to adjournments, granting of time, arrest or attachment before judgment, issue of injunctions, examination of the parties or their pleaders and of witnesses or other persons, issue of commissions, award of interest or mesne profits, separation of misjoined suits, permission to bring fresh suits, or otherwise, as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under chapter V.

The provisions of such chapter, unless when otherwise provided, shall apply to appeals under this chapter so far as the same are applicable.

Execution of decree of Appellate Court.

583. When a party in whose favour a decree is passed in an appeal under this chapter is desirous of obtaining execution of the same, he shall apply to the 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 XLI.

OF APPEALS FROM APPELLATE DECREES.

Second appeals to High Court.

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)—

Grounds of second appeal.

(*a*) the decision being contrary to some specified law or usage having the force of law;

(*b*) the decision having failed to determine some 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.

No second appeal in certain suits.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the debt, compensation or demand for which the original suit is instituted, does not exceed the sum of five hundred rupees.

Provisions as to second appeals.

587. Every memorandum of appeal under this chapter shall be accompanied by a copy of the decree appealed against,

and the provisions contained in chapter XLII shall apply as far as may be to appeals under this chapter,

and the decree made by the appellate Court shall be executed by the Court which made the decree in the suit in which such appeal was preferred, under the rules hereinbefore provided for the execution of decrees in suits.

Execution of decree in second appeal.

CHAPTER XLII.

OF APPEALS FROM ORDERS.

Orders appealable.

588. An appeal shall lie from the following orders under this Code and from no other such orders:—

(*a*) orders under section 19, staying proceedings in a suit,

(*b*) orders under section 24, determining whether immoveable property is or is not within the local limits of the Court's jurisdiction,

(*c*) orders under section 32 striking out or adding the name of any person as plaintiff or defendant,

(*d*) orders under section 44, adding a cause of action,

(*e*) orders under section 47, excluding a cause of action,

(*f*) orders rejecting or returning plaints under section 53, clause (*d*), or section 54, clauses (*b*) and (*d*), or section 57, clause (*c*),

(*g*) orders rejecting applications under section 102 in cases open to appeal for an order to set aside the dismissal of a suit,

(*h*) orders under section 120 where a party fails to appear,

(*i*) orders under section 168 for attachment of property,

(*j*) orders under section 176 where a party refuses to give evidence or produce a document called for by the Court,

(*k*) orders under section 244 as to questions relating to the execution of decrees,

(*l*) orders under section 261 as to objections to draft conveyances or draft endorsements,

(*m*) orders under section 312 for setting aside, or under section 314 for confirming, a sale,

(*n*) orders in insolvency matters under section 351, 352, 357, or 359,

(*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, 503 or 513.

(*s*) orders under section 518 modifying an award,

(*t*) 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.

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.

Procedure in appeals from orders.

590. The procedure prescribed in chapter XLII 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.

No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

591. Except as provided in this chapter, no appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

CHAPTER XLIII.

OF PAUPER APPEALS.

Who may appeal as pauper.

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, XL, XLI and XLII, in so far as those rules are applicable:

Procedure on application for admission of appeal.

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.

Enquiry into pauperism.

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:

Proviso.

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 enquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such enquiry.

CHAPTER XLIV.

OF APPEALS TO THE QUEEN IN COUNCIL.

'Decree' defined.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

When appeals lie to Queen in Council.

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

(*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, whenever 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.

Certificate as to value or fitness.

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.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may,

Admission of appeal and procedure thereon.

(*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 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,

Power to order further security or payment.

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,

Effect of failure to comply with order.

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.

Refund of balance of deposit.

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.

Powers of Court pending appeal.

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.

Increase of security found inadequate.

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

Procedure to enforce orders of Queen in Council.

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.

Appeal against order relating to execution.

612. The first column of No. 169 of the second schedule annexed to the Indian Limitation Act, 1871, shall be read as if the following words were added thereto (that is to say): "or any order of Her Majesty in Council."

Amendment of Act IX of 1871, schedule II, No. 169.

613. The High Court may, from time to time, make general rules consistent with this Act to regulate—

Power to make rules.

(*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 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.

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 613, 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.

616. Nothing herein contained shall be understood—

Saving of Her Majesty's pleasure,

(*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 XLV.

OF REFERENCE TO THE HIGH COURT.

617. If before or in 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 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 point on which doubt is entertained, and refer such statement with its own opinion 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 suit or appeal notwithstanding such reference, and may pass a decree 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 in any case in which such reference is made to the High Court until the receipt of the order of that Court.

If a decree has been made its execution shall be stayed 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 suit or appeal in which the reference is made, in person or by their respective pleaders, and shall determine the point so referred to it, 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 suit or appeal 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 suit or appeal.

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 which the Court making the reference has passed in the suit or appeal out of which the reference arose, and make such order as it thinks fit.

Power to alter, &c., decrees of Court making reference.

PART VIII.

CHAPTER XLVI.

OF REVIEW OF JUDGMENT.

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 passed any order contrary to law, and may set aside the decision, or pass such other 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.

The District Court may exercise the like powers as to any case decided by any Court subordinate thereto.

623. Any person considering himself aggrieved—

Application for review of judgment.

(*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 adduced 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.

624. Except on 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.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Form of applications for review.

626. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application.

Application when rejected.

If the Court be of opinion that the review shall be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion:

Application when granted.

Proviso. Provided that—

(*a*) no such review 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 review 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, continue attached to the Court at the time when the application for a review is presented and are not, or is 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.

Application when rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. The order of the Court whether for granting the review or rejecting the application shall be final, except where the review has been granted without jurisdiction, in which case an appeal shall lie.

Order of Court final.

Where the application has been rejected in consequence of the failure of the parties to appear, the applicant may, within fifteen days from such rejection, 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 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 XLVII.

SPECIAL RULES RELATING TO THE 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.

Except as provided in this Part, the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

632. Suits may be tried and determined by the High Court in the exercise of its ordinary original civil jurisdiction, if,

Ordinary original civil jurisdiction of the High Court.

(*a*) in the case of suits for immoveable property, the property or any part thereof is situate, or,

(*b*) in all other cases, the cause of action, or any material part of the cause of action, has arisen, or the defendant or any of the defendants at the time of the commencement of the suit dwells, or carries on business, or personally works for gain, within the local limits of such jurisdiction:

Provided that the leave of the Court be first obtained,

(*c*) in the case of suits for immoveable property where only part thereof is situate within such limits, and

(*d*) in other cases where only part of the cause of action has arisen, or only some of the defendants at the commencement of the suit dwell, or carry on business, or personally work for gain within such limits:

Provided also that no High Court shall, in the exercise of its ordinary original civil jurisdiction, try any case in which the debt, or compensation, or value of the property sued for, does not exceed five hundred rupees, and which falls within the jurisdiction of a Small Cause Court situate within the local limits of such jurisdiction.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

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;

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

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.

635. No attorney shall, under the provisions of this Code, be entitled to address the Court or examine witnesses.

Attornies not to address Court.

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 writs of summons 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 act not of a judicial nature which this Code requires to be done by a Judge, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to perform 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 acts not of a judicial nature within the meaning of this section.

638. The procedure in civil cases brought before the High Court in the exercise of its Admiralty or Vice-Admiralty jurisdiction shall be regulated, so far as the circumstances of the case will permit, by the rules prescribed in this Code.

Procedure in Admiralty cases.

In the following cases in the exercise of such jurisdiction, (namely)—

(*a*) cases in which a ship, or a ship and cargo have been or are to be proceeded against or arrested,

(*b*) cases in which goods only have been or are to be proceeded against or arrested, either for the purpose of proceeding against the goods or the freight due thereon,

(*c*) cases in which property has been or is arrested and no party has appeared or appears at the return of the warrant, and

(*d*) all other cases in the exercise of Admiralty or Vice-Admiralty jurisdiction in which the rules contained in this Code are not applicable,

the practice and procedure shall be regulated as nearly as possible by the Rules and Regulations made and ordained by his late Majesty King William the Fourth in Council in pursuance of the Second of William the Fourth, chapter 51, and touching the practice to be observed in the several Courts of Vice-Admiralty in the Colonies, except so far as such rules may be inconsistent with the Twenty-fourth and Twenty-fifth of Victoria, chapter 104, or with the Letters Patent granted in pursuance thereof.

639. In suits for mariners' wages brought before the High Court in the exercise of Admiralty or Vice-Admiralty jurisdiction, any number of mariners belonging to the same ship or serving under the same owner may proceed jointly in one suit.

Joinder of mariners in suits for wages.

640. 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 37, 54 clause (*a*), 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 206, 261, 403, 404, 405,

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.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

Code not to affect High Court in exercise of insolvent jurisdiction.

641. The High Court shall have power to frame forms for every proceeding in such Court, for which the High Court thinks it necessary that forms should be provided, and for keeping all books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLVIII.

MISCELLANEOUS.

Exemption from Personal Appearance.

642. 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.

Exemption of certain women from personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

643. 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.

Local Government may exempt certain persons from personal appearance.

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.

List of names of persons exempted to be kept in subordinate Court.

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.

Costs of commission rendered necessary by claiming privilege.

Exemption from Arrest.

644. 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.

Persons exempt from arrest.

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.

Offences in Court.

645. 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 Indian Penal Code, which may be made in respect to any document offered in evidence in the case, the Court may send the person accused in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

Procedure in case of certain offences relating to documents.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall 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.

Forms.

646. Subject to the power conferred on the High Court by section 640 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.

Use of forms in fourth schedule.

Language of Courts.

647. 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 Court until the Local Government otherwise orders;

Language of subordinate Courts.

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.

Statement of Cases by Registrars of Small Cause Courts.

648. 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.

Miscellaneous Proceedings.

649. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court, 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.

Civil Process for Attachment, Sale or Payment.

650. If any property to be attached under this Code is situate without the local limits of the jurisdiction of the Court making the order of attachment, such Court, if a District Court, shall send to the District Court within the local limits of whose jurisdiction such property is situate, a copy of the order together with the probable amount of the costs of the attachment.

Procedure when property to be attached is situate outside the local limits of jurisdiction.

Such District Court shall, on receipt of such copy and amount, cause the attachment to be made as if the original order of attachment had been made by itself, and inform the Court by which such order was made or transmitted of the making of the attachment.

If the Court making the order of attachment is subordinate to a District Court, it shall send such copy to the District Court to which it is subordinata, and such Court shall, if it think fit, deal with the order as if it had been made by itself.

651. The rules contained in chapter XIX shall be applicable to the execution of any judicial process for 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 sale or payment.

Witnesses.

652. 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.

Escape from Custody.

653. 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 be punished with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees, or with both.

Penalty for escaping from custody under Code.

Subsidiary Rules.

654. 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. 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.	The whole Act, except sections 15 and 192.
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 1868 ...	To make provision for the speedy and efficient disposal of the business, &c.	So much as has not been repealed.
XXXII of 1868 ...	To continue in force Act XX of 1862...	So much as has not been repealed.

THE FIRST SCHEDULE.

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. 3, 22, 23, 24, 25, 26, 27, 28, 42 and 47, and in section 32 the words "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 7, 9 and 10.
VI of 1874 ...	The Privy Council Appeals Act, 1874 ...	The whole.

C.—REGULATION REPEALED.

Madras Regulation XIV of 1816.	Vakíls	Section 27.

THE SECOND SCHEDULE.

(See section 5.)

Chapters and Sections 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 19, para. 4, and sections 21 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the suit, except sections 42, 44 rule *a*, 45, 46 and 47.

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, para. 1, 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 and 214.
CHAPTER XVIII.—Sections 219, 220 and 221, of Costs.
CHAPTER XIX.—Of the Execution of Decrees, sections 230 to 235 (both inclusive), 238 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, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 302 (both inclusive), 335 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.
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Bombay enactments.

Bombay Regulation XXIX, 1827.
" " VII, 1830.
" " 5, 1831.
" " XVI, 1831.
Act XIX of 1836.
" XIII of 1842.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 7, 1876.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th September 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 12 of 1876.

THE STRAITS SETTLEMENTS EMIGRATION BILL, 1876.

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44. Taking on board, after clearance, emigrants not entered in list.
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49. Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

A Bill to regulate the Emigration of Native labourers from the Presidency of Fort Saint George to the Straits Settlements.

Preamble. Whereas it is expedient to regulate emigration from the Presidency of Fort Saint George to the Straits Settlements; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Straits Settlements Emigration Act, 1876:"

Local extent. This section and section two extend to the whole of British India: the rest of this Act extends only to the territories under the government of the Governor of Fort Saint George in Council;

Commencement. And it shall come into force on such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the *Fort Saint George Gazette*, direct.

Act XIV of 1872, repealed. 2. On and from such date Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act*, 1871) shall be repealed, but not so as to revive any right to sue or ground of proceeding taken away by the said Act.

Act VII of 1871 not to apply to emigration from Madras to the Straits Settlements. The provisions of Act No. VII of 1871 (*to consolidate the laws relating to the emigration of Native Labourers*) shall not apply to emigration to the Straits Settlements from the said territories, or to any contract for labour to be performed in the Straits Settlements by an emigrant from the said territories.

Interpretation-clause. 3. In this Act—

"Emigrate." "Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements:

"Emigrant." "Emigrant" means a person who "emigrates" within the meaning of the above definition:

"Magistrate." "Magistrate" means a Magistrate of a District, a Magistrate of a division of a District, or any person appointed by the Local Government to perform the functions of a Magistrate under this Act:

"Vessel." "Vessel" includes anything made for the conveyance by water of human beings or property.

From what port emigration lawful. 4. It shall not be lawful to emigrate except from the Port of Negapatam, or from such other port as may from time to time be declared by the Local Government, by a notification in the *Fort Saint George Gazette*, to be a port from which emigration under this Act shall be lawful.

While any such notification is in force, all the provisions of this Act shall apply to the port mentioned in such notification in like manner as they apply to the Port of Negapatam.

The Local Government may, at any time, by a like notification, revoke any such notification.

II.—EMIGRATION AGENT.

Appointment of Emigration Agent. 5. The Government of the Straits Settlements may, from time to time, appoint such person as the Local Government approves, to act as Emigration Agent at the Port of Negapatam, or such other port as aforesaid.

The Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

III.—PROTECTOR OF EMIGRANTS.

Appointment of Protector of Emigrants. 6. The Local Government shall direct the Magistrate of the division of the District in which the Town of Negapatam is situated, or such other Magistrate in Negapatam as it thinks fit, to act as Protector of Emigrants under this Act; and may, with the sanction of the Governor General in Council, assign to such Magistrate such establishment as it thinks fit.

General duties of Protector. 7. Such Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

Inspection of vessels with return emigrants. He shall also inspect on arrival all vessels bringing return emigrants to Negapatam, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Local Government.

He shall aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

IV.—EMIGRATION DEPÔT.

Establishment and licensing of depôt. 8. The Emigration Agent shall establish a suitable depôt for emigrants at Negapatam and at any such other port as aforesaid. Such depôt may be licensed by the Protector of Emigrants after being inspected and approved of by him.

Duration of license. No such license shall be in force for a longer period than a year; and any such license may be cancelled by the Protector of Emigrants, if he considers that the depôt for which it was granted is unhealthy, or in any respect has become unsuitable for the purpose for which it was established, or if the Emigration Agent fails to comply with any of the requirements of this Act.

Fee for license. For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

Inspection by Protector. 9. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Agent and his subordinates to afford facilities for inspection. The Emigration Agent and all persons in charge of, or employed in, the depôt, shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information as he may require.

Supply of medical aid and comforts. 10. The Emigration Agent shall provide at the depôt such medical aid and comforts as the said Protector may from time to time direct.

V.—RECRUITERS OF LABOURERS.

Protector to license recruiters. 11. The Protector of Emigrants shall license so many fit persons, as he deems necessary, to be recruiters of labourers for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from the Protector of Emigrants.

Duration and cancelment of license. 12. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Form of license. 13. Every such license shall specify the local limits within which the person licensed may recruit la-

bourers, and shall be in the form set forth in the first Schedule hereto annexed.

Fee for license.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

Recruiter to obtain Magistrate's countersignature to license.

14. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

VI.—CONTRACTS WITH EMIGRANTS.

Conditions of validity of emigration contracts.

15. A contract made by a recruiter with a Native of India to emigrate shall not be enforceable by the recruiter or his principal unless it—

(*a*) is expressed in writing;

(*b*) purports to be executed by the recruiter on behalf of some principal in the Straits Settlements;

(*c*) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;

(*d*) is registered in the manner provided in section nineteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

Contents of such contracts.

16. Every such contract shall—

(*a*) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and

(*b*) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

Certain agreements declared void.

17. Save as provided by section fifteen, clause (*c*), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Every contract not containing the particulars required by section sixteen shall be illegal and void.

Medical examination of intending emigrants.

18. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the District, or such other Medical Officer as the Local Government appoints in this behalf, or in default of such appointment, before such Medical Officer as the Magistrate directs.

The Medical Officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

Dependents.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the Medical Officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the Medical Officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Form of Certificates.

Certificates shall be in the form set forth in the second Schedule hereto annexed; and the recruiter shall pay to the Medical Officer such fee for each person so examined as the Local Government may from time to time prescribe.

Emigrant to appear before Magistrate,

19. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

and be examined.

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

If it appears on such examination that the recruit understands the nature of the contract he has entered into as regards the particulars specified in section sixteen, and that he is willing to fulfil the same, the Magistrate shall register

(*a*) the name, the father's name and the age of such recruit:

(*b*) the name of the village or place in which he resides:

(*c*) the port of embarkation to which it is intended he shall proceed:

(*d*) the particulars specified in section sixteen.

The recruit shall thereupon be deemed an emigrant under this Act.

Registration when to be refused.

If the Magistrate thinks that the recruit does not understand the nature of his contract, or has been induced to enter into it by fraud or misrepresentation, he shall refuse to register him, and record his reasons for such refusal.

Examination of dependents.

20. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

Copies of registered matters.

21. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections nineteen and twenty.

Copy of entry in register to be sent to Emigration Agent and Protector.

22. A copy of every entry made in the registry book by a Magistrate shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

Registration at Negapatam.

23. Registration under section nineteen and section twenty of emigrants recruited in the division of the district in which the town of Negapatam is situated, and of persons dependent on such emigrants, shall be effected before the Protector of Emigrants in the manner hereinbefore prescribed for registration before a Magistrate; and such Protector shall deliver one copy of the contract to the emigrant and another copy of the contract to the Emigration Agent.

Fee for registration.

24. For the registration of every contract under section nineteen, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee as may be from time to time directed by the Local Government, not exceeding one rupee.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

Arrival at depôt to be reported.

25. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Duty of Emigration Agent on arrival of emigrants.

26. The Emigration Agent shall, within forty-eight hours after the arrival of each emigrant at the depôt, question such emigrant as to the mode of his recruitment, and shall at the same time examine the copy of the contract furnished to the emigrant under section twenty-three.

If, for any reason, further inquiry is necessary, he shall make such enquiry forthwith.

Duty of Protector.

27. The Protector of Emigrants shall attend personally at the examination of emigrants by the Emigration Agent under section twenty-six, except in the case of emigrants recruited in the division of the district in which the town of Negapatam is situated, and shall see that the Emigration Agent makes all such enquiries of the emigrants as it may be his duty to make.

Countersignature of contract.

28. If in the opinion of the Protector of Emigrants the examination and enquiry made under section twenty-six disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration Agent shall countersign the emigrant's copy of the contract, and the Emigration Agent shall make out and deliver to the emigrant an embarkation pass signed by the Emigration Agent, and countersigned by the Protector, stating the name and the age of the emigrant and the name of his father, and certifying that he has been duly registered for emigration to the Straits Settlements.

Grant of embarkation pass.

When the emigrant to be sent back to the place of registration.

29. If the Protector of Emigrants considers that any emigrant, not being an emigrant recruited in the division of the district in which the town of Negapatam is situated, is physically unfit to emigrate, and that he has not dishonestly represented himself as physically fit;

or that any such irregularity has occurred in the recruitment of any such emigrant, as makes it just to vacate the contract;

or if the Emigration Agent refuses without the consent of the Protector to countersign the emigrant's copy of the contract as required by section twenty-eight, or to be bound by the contract;

Payment of expenses of sending him back.

the Protector of Emigrants may order the Emigration Agent, or the recruiter with whom the contract was made, forthwith to pay to him such reasonable sum as is necessary to enable such emigrant to return to the place where his contract was registered; and may take any steps he thinks necessary for the conveyance of such emigrant to such place.

Failure of Emigration Agent, &c., to pay such expenses.

30. On failure of the Emigration Agent or of such recruiter for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to, or on behalf of, the emigrant.

Every sum so paid shall be recoverable by the Protector, with six per cent. per annum interest from the date of payment, from the Emigration Agent, or from such recruiter, as money paid to the use of such Emigration Agent or recruiter.

No further proof shall be required by any Court in any such case than that the Protector gave such Emigration Agent or recruiter an order to pay such money, and that the Emigration Agent or recruiter for a space of twenty-four hours made default in complying therewith.

Emigrant unfit from illness to return to the place of registration.

31. Every emigrant as aforesaid who, from his state of health, is, in the opinion of the Protector, unfit to undertake the journey back to the place where his contract was registered, shall, in addition to being conveyed back at the expense of the Emigration Agent or recruiter, be entitled to continue in the depôt, and to be fed, clothed, lodged and attended to there by and at the expense of the Emigration Agent until such time as the Protector otherwise orders.

Suits against Emigration Agent for breach of contract.

32. In every case in which the Emigration Agent refuses, without the consent of the Protector, to countersign, or be bound by a contract registered under section nineteen, or is chargeable with a breach of any duty which such contract expressly or by implication imposes upon him, the Protector may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of damages for the breach of such contract.

In every such suit the contract entered into by the recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

VIII.—EMIGRANT VESSELS.

33. No Master or other person in charge of a vessel shall receive on board such vessel any emigrant unless such vessel has been licensed, under the law for the time being in force relating to the carriage by sea of Native passengers, to carry passengers from the territories under the Government of Fort Saint George to the Straits of Malacca, and unless the Master of such vessel has obtained a certificate from the Protector of Emigrants authorizing him to receive on board the number of emigrants specified therein.

Emigrants not to be received on board vessels other than those licensed under Native Passengers Act, or without certificate from Protector.

No such certificate shall be granted by the Protector of Emigrants unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.

34. On embarkation every emigrant shall deliver to the Master of the vessel the embarkation pass granted to him under section twenty-eight, and the Master shall not receive any emigrant on board unless he delivers up such pass.

Emigrant to give his pass to Master.

35. The Emigration Agent shall be personally present at the embarkation of all emigrants, and shall see that the Master duly examines the passes of the emigrants, and shall himself also examine such passes.

Emigration Agent to be present at embarkation.

The Emigration Agent shall not permit any emigrant to remain on board who has not a pass.

36. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the Emigration Agent a list signed by himself of all emigrants on board, and shall retain a counterpart of such list signed by the Emigration Agent.

Master to deliver list of emigrants.

A copy of such list signed by the Emigration Agent and Master shall be sent to the Protector of Emigrants before the vessel sails.

IX.—SUPPLEMENTARY POWERS.

37. Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration to the said Settlements shall cease from a day to be specified in such notification.

Power to prohibit emigration to the Straits Settlements.

When any notification has been published under this section, emigration and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.

38. Such notification may be revoked in like manner at the discretion of the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

Revocation of prohibition.

From the day so specified all the provisions of this Act authorizing emigration to the said Settlements shall be revived, and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.

X.—OFFENCES.

39. Whoever, except under and in conformity with the provisions of this Act, engages or attempts to engage any Native of India to emigrate,

Making unlawful contract of labour.

or whoever engages or attempts to engage any Native of India to enter into any such contract as is hereby declared illegal,

or, not being a recruiter duly licensed under this Act, acts or is employed as a recruiter of labourers,

Recruiting without being licensed.

or being a duly licensed recruiter, removes or attempts to remove any emigrant whom he engages in any district from such district without the contract with such emigrant having been duly registered under section nineteen,

Recruiter omitting to take engaged labourers before Magistrate or Protector.

shall be punished with imprisonment, which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

40. Whoever, by means of intoxication, violence, fraud, or false pretences, causes or induces or attempts to cause or induce any Native of India to emigrate or to enter into any contract to emigrate, or into any such contract as is hereby declared illegal, or to proceed to the said Settlements without having entered into any contract, shall be punished with imprisonment, which may extend to three years, or with fine or with both.

Use of force, fraud, &c., to cause a Native to emigrate.

41. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure labourers to proceed to the said Settlements, or falsely represents that such labourers are required by the Government, or are to be engaged on behalf of the Government, shall be liable to a fine not exceeding five hundred rupees.

False representation of Government authority.

42. Any Master of a vessel not licensed as provided in section thirty-three who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

Receiving emigrants on board without license or certificate.

and any Master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a period not exceeding three months, and also to a fine not exceeding two hundred rupees, and the vessel shall be liable to be forfeited.

43. Any Master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections thirty-four and thirty-six, shall be liable to a fine not exceeding two hundred rupees.

Failure to comply with requirements of sections 34 and 36.

44. Any Master of a vessel who having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section thirty-six, shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.

Taking on board, after clearance, emigrants not entered in list.

45. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

46. All prosecutions under this Act shall be instituted by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Prosecutions under this Act by whom to be instituted.

XI.—MISCELLANEOUS.

47. Nothing in this Act shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act not to apply to certain vessels,

48. Nothing in this Act shall apply to any contract with, or the emigration of, any Native seaman, or other person who of his own free will contracts to navigate or serve on board of any vessel, or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

or to contracts with Native seamen and menial servants.

49. The Emigration Agent and all persons employed by him and the Protector of Emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.

Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

THE FIRST SCHEDULE.

(*See section* 13.)

Office of the Protector of Emigrants at the Port of Negapatam.

A. B. described in the Roll annexed is hereby licensed under the Straits Settlements Emigration Act, 1876, to be a recruiter of labourers.

[*Here set out the local limits within which the recruiter is licensed to act.*]

This license will be in force for only from this date, unless previously cancelled.

(Sd.) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Colour.	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village and district to which he belongs.

THE SECOND SCHEDULE.

(*See section* 18.)

I hereby certify that I have this day examined *A. B.*, and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to the Straits Settlements [and to work there*].

(Sd.) *C. D.*,
(*Here add designation of examining officer.*)

* These words to be omitted in case of women and children not engaging for labour.

STATEMENT OF OBJECTS AND REASONS.

The circumstances which make special legislation necessary to regulate emigration from the Madras Presidency to the Straits Settlements were fully explained in Council on the 6th June 1872, when leave was asked to introduce the Bill which passed as Act XIV of 1872. The Bill then introduced was intended merely to make temporary provision for a pressing emergency, and it was stated that a further measure to make permanent provision, in all requisite detail, for emigration to the Straits was then under preparation in communication with the Colonial Government and would afterwards be introduced. Some time, as might have been expected, has passed in arranging with the Government of the Straits the details of the present Bill and of the corresponding Ordinance intended to be passed by the Straits Legislative Council.

2. The law of the Straits Settlements has either been, or will soon be, placed on a permanent footing, and it is desirable that no further delay should take place in carrying out the legislation requisite here.

3. The present Bill, it will be seen, is based on the Indian Emigration Act, 1871. It differs from that Act, however, in two important respects. In the first place, the provisions it contains regarding the conveyance of emigrants to the depôt, the equipment of emigrant vessels, the embarkation of the emigrants, &c., are of a less detailed and stringent nature than the corresponding provisions of the Act of 1871. As was observed in the discussions which led to the passing of Act XIV of 1872, it would be absurd to hamper emigration to a Colony which may be reached in eight or ten days with regulations designed for a voyage like that to the West Indies.

4. The other point in which the present Bill differs from the Act of 1871 (and on this point it is more stringent than the Act of 1871) is in regard to contracts between recruiters and emigrants. The conditions of emigration from Madras to the Straits Settlements are somewhat different from those which prevail in other Colonies drawing their supplies of labour from India. The law in these other Colonies places upon the Government the responsibility for the fulfilment of the conditions under which the emigrant leaves his home; the immigrants are received by Government Agents on their arrival, and allotted to employers by these Agents; contracts are made on their behalf by Government, and Government undertakes to provide them with a free passage to India on the completion of their term of service, or sooner if they become disabled.

5. In the Straits Settlements, on the other hand, the contract has hitherto been confined to the emigrant and the individual employer; and the function of Government has been merely to watch over its due fulfilment by both parties. It is still intended that contracts shall be made in the first instance between emigrants and individual employers; and therefore it becomes specially necessary in the case of an emigrant to the Straits to make sure that the contract entered into by him before he leaves India distinctly provides for those points on which the Government of India is in the habit of insisting as essential. Hence the additional rules regarding the form and contents of contracts laid down in sections fifteen and sixteen of the present Bill.

6. It is however desired by the Government of India that the Government of the Straits Settlements shall guarantee to emigrants the performance of certain important conditions of their contracts, if the employers fail to perform them. It is also thought expedient to declare expressly that contracts made in Madras by Natives for repayment of money in the Straits Settlements, in consideration of assistance to leave India, shall be void except for the purpose of redeeming their contracts to work.

7. It will be observed that the present Bill proposes to repeal Act XIV of 1872, and thereby, so far as regards all India except Madras, to remit the Straits Settlements to the position they were in before the passing of that Act. That is to say, as regards all India except the Madras Presidency, emigration to the Straits Settlements will not be lawful, and cannot be made lawful except under the provisions of the Emigration Act of 1871. The reason for this state of things will be found stated in the proceedings of Council before referred to. The peculiarities of the labour traffic between Madras and the Straits Settlements are its long duration, the existence of a large Tamil population in the Straits, and the proximity of the two countries. These circumstances do not affect any part of India except Madras.

SIMLA;
The 10th September 1876. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st September 1876:—

We, the undersigned Members of the Select Committee to which the Bill for consolidating and amending the laws relating to the Procedure of the Courts of Civil Judicature in British India was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Despatch from Secretary of State, No. 4, dated 4th February 1875.
From Sheriff of Calcutta, No. 50, dated 15th April 1875.
Office Memo. from Military Department, No. 181J., dated 9th June 1875, and enclosures.
Despatch from Secretary of State, No. 34, dated 3rd June 1875.
From certain inhabitants of Farrukhábád, dated 6th September 1875.
Endorsement, Home Department, No. 1388J., dated 7th September 1875, forwarding—
Translation of an opinion by Ganpant Rao Yeswant of Satára.
Observations by J. Pitt Kennedy, Esq., Standing Counsel, dated 20th September 1875.
From Government, North-Western Provinces, No. 605A., dated 7th October 1875, and enclosure.
" Government of Bengal, No 3122, dated 4th November 1875, and enclosures.
" Officiating Chief Commissioner, Oudh, No. 5200, dated 9th November 1875, and enclosures.
" Officiating Chief Commissioner, Central Provinces, No. 4071—106, dated 10th November 1875, and enclosure.
" Officiating Chief Commissioner, British Burma, No. 1530 194, dated 20th November 1875, and enclosures.
" Vakils of the Madras High Court, dated 26th November 1875.
" Chief Commissioner of Oudh, No. 5687, dated 7th December 1875.
" Registrar, High Court, Calcutta, dated 22nd December 1875, and enclosures.
" Government of Bombay, No. 144, dated 8th January 1876, and enclosures.
" Registrar, High Court, Calcutta, No. 62, dated 15th January 1876, and enclosure.
Endorsement, Department of Revenue, Agriculture and Commerce, No. 105, dated 8th February 1876, forwarding—
Letter from Government of Bombay, No. 7194, dated 22nd December 1875.
From Government of Bengal, No. 470, dated 11th February 1876, and enclosures.
" Government of Madras, No. 243, dated 12th February 1876, and enclosure.
" Government of Madras, No. 436J., dated 8th March 1876, and enclosures.
" Government, North-Western Provinces, No. 62, dated 13th April 1876, and enclosures.
Remarks by L. P. D. Broughton, Esq.
Note by John Shaw, Esq., Registrar, High Court, Madras, dated 22nd May 1876.
Observations by the District Munsif of Travellore, Madras.
From Government of Bombay, No. 3968, dated 6th July 1876, and enclosures.
" Government of the Panjáb, No. 204C, dated 5th August 1876, and enclosures.
" Government of Bombay, No. 4022, dated 10th July 1876, and enclosure.

PRELIMINARY.

We have amended the definition of 'pleader' so as to make it include an attorney of a High Court, and have modified the definition of 'subordinate' Court so as to give District Courts power to control Courts of Small Causes, and we have added definitions of 'Judge,' 'judgment-debtor,' 'decree-holder,' 'affidavit' and 'public officer.' With the view of encouraging printing in legal proceedings, we have defined 'written' to include 'printed' and 'lithographed.' We have also amended the definition of 'Foreign Court' so as to exclude the Judicial Committee of the Privy Council. We have saved the Central Provinces Courts Act, 1865, the Panjáb Courts Act, 1865, Act XXVII of 1867, and all local laws prescribing a special procedure between landlord and tenant. We have struck out the obsolete references to trials by military officers of small suits in Madras and to District and Military Panchâyats in that Presidency.

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

We have amended the section (13) as to *res judicata* (*a*) by extending it so as to provide for estoppels against defendants, (*b*) by explaining, in accordance with a decision in 10 Bom. 293, that any matter which might and ought to have been made ground of defence in a former suit brought by the defendant against the plaintiff shall be deemed to be a matter substantially in issue in such suit, and (*c*) by providing that decisions alterable on review may be final within the meaning of this section. We have also struck out the clause relating to decisions obtained by arrangement; and we have omitted the illustrations as unnecessary.

CHAPTER II.—OF THE PLACE OF SUING.

We have here provided (section 15) for the venue of suits for compensation for wrongs to immoveable property. In section 19 we have provided for giving notice of motions to stay proceedings where the whole cause of action did not arise within the jurisdiction and all the defendants do not reside therein. Where a Court stays proceedings, we have declared (section 20) that the time required for proceeding from that Court to the Court in which the suit is re-instituted shall be excluded in computing the proper period of limitation.

We have provided (sections 21, 22, 23) for giving notice to the plaintiff where the defendant applies to transfer a suit capable of being instituted in different Courts (*a*) subordinate to the same Appellate Court, or (*b*) not so subordinate.

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

For sections 27, 28, 29, 30, 40 and 41 of Bill No. III, we have substituted eight sections as to parties, taken, with some modifications, from the Orders framed under the Supreme Court of Judicature Act, 1875.

We have provided (section 37) that certificated mukhtárs holding special powers of attorney may be recognized agents, and declared that in the Panjáb, Oudh and the Central Provinces recognized agents shall be such persons as the Local Government may by notification declare. This will enable the Local Government to keep, if it thinks fit, the special rules on this subject now in force in those territories.

We have amended the section (41) relating to the appointment of agents to receive process.

CHAPTER IV.—OF THE FRAME OF THE SUIT.

For the sections (44, 45, 46, 47) of Bill No. III, as to joinder of causes of action and multifariousness, we have substituted four sections taken from the Orders above mentioned. When the plaint is amended by excluding any cause of action, we have provided (section 47) that the amendment shall be attested by the Judge's signature.

CHAPTER V.—OF THE INSTITUTION OF SUITS.

We have here provided (section 49) that where English is not the language of the Court, the plaint may, with the permission of the Judge and the consent of the defendant, be in English.

Where the plaintiff has allowed a set-off, or relinquished part of his claim, we have required (section 50) that his plaint should state the amount so allowed or relinquished.

We think that, when once issues have been settled, the plaint should not be rejected, returned for amendment or amended; and we have altered section 53 (=52 of Bill No. III) accordingly. We have provided (section 52) for examining the witness to the verification. We have provided (section 54) for the rejection, &c., of the plaint if it is not framed so as to afford ground for a single decision on the whole subject in dispute and for the attestation of the amendments by the signature of the Judge. Where a plaint is returned we have required (section 57) that the endorsement be made by the Judge himself.

When the plaint is admitted we have required (section 58) the plaintiff to present as many copies as there are defendants, unless the Court permits him to file a like number of concise statements of the nature of the claim made, in which case he will file a like number of such statements. We have made provision in the same section for ascertaining the correctness of these copies and statements and of the memoranda of documents filed with the plaint.

Where the plaintiff relies on documents not in his possession, we have provided (section 60) that he shall state in whose possession they are, and where they are in the possession of a stranger to the suit, that he shall take out a summons requiring them to be filed in Court.

From the operation of the section (63) declaring the inadmissibility as evidence for the plaintiff of documents not produced when the plaint is filed, we have excluded documents produced for the examination of the defendant's witnesses or in answer to any case set up by him.

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

We have provided (section 65) that no summons to the defendant to appear and answer shall be issued when he has appeared at the presentation of the plaint and admitted the plaintiff's claim.

Even where railway communication exists, we think that no party should be ordered to appear in person who resides more than two hundred miles from the Court-house, and we altered section 67 (=section 64 of Bill No. III) accordingly.

Where the defendants are partners, we have provided (section 74) for service of the summons on any person having the management of the partnership business.

For the purpose of the section (76) relating to service on an agent by whom the defendant carries on business, we have declared that the master of a ship is the agent of the owner or charterer.

We think (section 81) that the practice of fixing a copy of the summons on the defendant's house should be discontinued, and that when he refuses to receive the copy or sign the acknowledgment of service, and where the serving-officer cannot find the defendant, and there is no one on whom service can be made, the serving-officer should return the summons with an endorsement that he has been unable to serve it, and we have required (section 82) the Court to examine him on oath touching the non-service. A similar provision, where the summons is sent to another Court to be served, is made in section 85.

We have inserted a section (84 = section 58 of Act VIII of 1859) providing that when service is substituted by order of the Court, a time shall be fixed for the defendant's appearance.

We have provided (section 95) for the service of notices and orders in writing.

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

Where neither party appears, we think (section 98) that the suit need not be dismissed when the Judge for reasons recorded under his hand otherwise directs. Where the plaintiff does not appear, but the defendant appears and admits part only of the plaintiff's claim, we have provided (section 102) that the Court shall dismiss the suit so far as relates to the remainder. Where the defendant appears and the suit is wholly or partially dismissed owing to the non-appearance of the plaintiff, and the plaintiff applies for an order to set the dismissal aside, we have provided in the same section that the defendant shall be served with notice of the application.

We have added to this chapter sections corresponding with chapter XXIII of Bill No. III as to setting aside decrees by default and *ex parte*.

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

To the section corresponding with section 105 of Bill No. III, we have added a few illustrations and a clause expressly providing that where the defendant, for the purpose of bringing the sum to be set-off within the pecuniary limits of the Court's jurisdiction, intentionally relinquishes any portion of his claim against the plaintiff, the provision in section 43, barring subsequent suits for sums so relinquished by plaintiffs, shall not apply.

We have allowed (section 112) written statements to be received, with the permission of the Court, at any time for the purpose of answering written statements made by the opposite party at the first hearing. And we think (section 115) that the Court should be expressly empowered to examine witnesses as to the signatures to written statements.

We have provided (section 117) that allegations of fact in written statements shall, if not denied, or stated to be not admitted, by the opposite party, be taken to be admitted *for the purposes of the suit*. We have here made no exception of minors and persons of unsound mind, and in this respect, and in the insertion of the words italicised, the section differs from the English Order XIX, rule 17.

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

We have here provided (section 118) that the Court may, if it think fit, put in the course of the examination questions suggested by either party, and (section 119) that the substance of the examination shall be reduced to writing by the Judge and form part of the record.

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

The first seven sections of this chapter are new. They empower parties to deliver interrogatories in writing and provide for inquiring into the propriety of exhibiting them, for striking out improper interrogatories, for making objections to answering interrogatories, and

for compelling persons to answer sufficiently. They correspond with the English Order XXXI, rules 1 to 10.

As to the admission of documents, we have amended section 128 (=113 of Bill No. III) by requiring the demand for admission to be served through the Court.

We have inserted sections (129, 130) empowering the Court to order production during the suit, and to direct parties to make discovery of documents relating to matters in question. And we have amplified (sections 131, 132, 133) the section (114) of Bill No. III relating to inspection of documents.

Where any discovery or inspection is objected to, and the Court is satisfied that the right to such discovery or inspection depends on the determination of any question in dispute in the suit, we have empowered (section 135) the Court to order that question to be first determined.

We have declared (section 136) that any person disobeying any order to answer interrogatories or for discovery or inspection, which has been served personally upon him, shall be deemed guilty of an offence under section 188 of the Penal Code, and that he shall also, if a plaintiff, be liable to have his suit dismissed, and, if a defendant, to be placed in the same position as if he had not defended.

The power which the Courts now possess under Act VIII of 1859, section 138, of sending for papers from nonjudicial public offices has, we find, been abused. We have therefore withdrawn this power, and persons applying to the Court to send for papers from judicial records will be required (section 137) to show that they cannot obtain the originals or authenticated copies.

We have expressly confined the section (138) requiring documentary evidence to be in readiness at the first hearing to documents in the possession or power of the parties.

We have provided (section 141) that no document shall be placed on the record unless it has been regularly proved or admitted. In the absence of such a provision questions frequently arise on appeal as to whether a document was in evidence or not.

We have provided (section 144) for the return of documents in suits in which an appeal is not allowed, and in all cases we have authorized their return when certified copies are delivered to the proper officer.

CHAPTER XI.—OF THE SETTLEMENT OF ISSUES.

We have exempted (section 146) the Court from the duty of framing and recording issues where the defendant at the first hearing makes no defence. When issues both of law and of fact arise in the same suit, and the Court considers that the case may be disposed of on the issues of law only, we have provided in the same section that the Court shall (not 'may') try the issues of law first. This, we think, will save expense, and will prevent cases being remanded for trial of issues of fact which, in the result, prove wholly irrelevant. As to issues by agreement of parties, we have provided (section 150) that, unless with the special permission of the Judge, no such agreement shall be filed after the Court has recorded issues in the suit.

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

We have here made no change requiring notice.

CHAPTER XIII.—OF ADJOURNMENTS.

We think that the provision in section 138 of Bill No. III that, when the hearing of evidence has once begun, the hearing of the suit shall not be adjourned, except from day to day, might occasionally have led to great inconvenience. We have therefore in section 156 substituted the following: "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 absolutely necessary for reasons to be recorded by the hand of the Judge."

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

We have omitted the power to insert in a summons the names of any number of persons. We have declared (section 165) that the rules contained in chapter VI as to proof of service shall apply in the case of all summonses served on persons required to give evidence or produce documents. Before attaching the property of a witness alleged to have absconded, we think that the serving officer should be examined on oath touching the non-service, and we have made a provision to this effect in section 167. We have omitted as useless the provision of the present law as to payment by the Collector of the costs of summoning a witness.

We have provided (section 173) that no witness who has been summoned and attends shall depart, unless he has been examined and the Court has risen, or he has obtained the Court's leave to go.

We have empowered (section 174) the Court to inflict a fine of Rs. 500 on persons failing to prove that they had a lawful excuse for not obeying the summons; and we have provided that non-payment or non-tender of reasonable viaticum shall be deemed a lawful excuse. When any such person is brought before the Court and cannot, owing to the absence

of parties, give the evidence or produce the document which he has been summoned to produce or give, we have by the same section authorized the Court to release him on bail.

We have declared (section 177) that no witness shall be bound to attend in person unless he resides (*a*) within the local limits of the Court's original jurisdiction, or (*b*) without those limits and less than fifty or (where there is railway communication) two hundred miles from the Court-house. It is obvious that there should be some limit beyond which parties should not be required to travel even by railway.

We have struck out the six sections (157 to 163 of Bill No. III) relating to the examination of parties as witnesses. This matter seems sufficiently provided for by the declaration contained in section 178 (=section 165 of Bill No. III), that when any party to a suit is summoned as a witness, the rules as to witnesses contained in the Code shall apply to him so far as they are applicable.

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

We have inserted (section 179) rules as to the right to begin.

We have provided (section 184) that any Judge may take down the evidence in English if the Local Government permits him to do so, or if the parties do not object.

Where the Judge taking down any evidence is removed from the Court before the conclusion of the suit, we have empowered (section 191) his successor to deal with the evidence as if he himself had taken it down.

Where a witness about to leave the jurisdiction is examined immediately, we have provided (section 192) that his evidence before being used as such shall be read over to him and, if he admits it to be correct, signed by him.

We have empowered the Court (section 193), at any stage of the suit, to recall and re-examine a witness who has not departed.

CHAPTER XVI.—OF AFFIDAVITS.

This chapter is wholly new. It empowers the Court to order any particular fact to be proved by affidavit: provides that evidence may be given by affidavit on any application or petition: indicates the matters to which affidavits should be confined: and lastly, specifies the officers by whom the oaths of declarants may be administered.

CHAPTER XVII.—OF JUDGMENT AND DECREE.

In accordance with a ruling of the Calcutta High Court, we have authorized (section 199) a Judge to deliver a judgment written by his predecessor but not delivered.

We think that, as a rule, the judgment should be written in the language of the Court, but we have provided (section 200) that if such language be not English or the Judge's mother-tongue, the judgment may be written either in English or his mother-tongue. We think (section 201) that the judgment need not be translated, unless any of the parties so require.

We have provided (section 202) that the judgment shall not be altered or added to, save to correct verbal errors or on review.

We think (section 203) that all judgments (save those of Small Cause Courts) should contain a concise statement of the case in addition to the matters mentioned in section 183 of Bill No. III.

We have provided (section 205) that the Judge before signing the decree shall satisfy himself that it has been drawn up in accordance with the judgment.

We have given power to amend the decree not only when it is at variance with the judgment, but also in case of clerical or arithmetical errors: but in all such cases we have provided (section 206) for notice to the parties or their pleaders.

In money-decrees, we think (section 209) that the interest allowed from the date of the decree should not exceed six per cent. per annum. This, we hope, will abolish the practice of treating such decrees as desirable investments.

We think (section 210) that no application for an order to pay the amount of a decree by instalments should be allowed after six months from the date of the decree, and we have provided for notice to the plaintiff of such applications.

In administering the assets of persons dying after the Code comes into force, we have provided (section 213) that the Courts shall be guided by the same rules as to rights of creditors, proveable debts and valuation of annuities, and future and contingent liabilities, as are in force as to the estates of persons adjudged insolvent, and that all persons who would be entitled to dividends out of the estate of any such deceased person, may come in under the decree and make their claims against the estate. We have declared in the same section that applications under section 265 of the Indian Contract Act, to wind up the business of a partnership, shall be deemed to be administration suits.

We think (section 216) that certified copies of the judgment and decree should not be furnished except at the expense of the parties applying for them.

CHAPTER XVIII.—OF COSTS.

We have here made no substantial change.

CHAPTER XIX.—OF THE EXECUTION OF DECREES.

We have distributed the matter of this long and important chapter under eight heads, namely, (*a*) Courts by which decrees may be executed, (*b*) application for execution, (*c*) staying execution, (*d*) the mode of executing decrees, (*e*) attachment of property, (*f*) sale and delivery of property, (*g*) resistance to execution, and (*h*) arrest and imprisonment.

Courts by which decrees may be executed.

For section 330 of Bill No. III, we have substituted a section (223) as to the Court by which a decree may be executed, and prescribing the procedure for sending a decree for execution to a Court other than that which passed it. When the Court passing the decree is subordinate to a District Court, we think it should send the decree to the District Court to which it is subordinate and that such Court should deal with the decree as if it had been passed by itself.

Application for execution.

When a decree has been transferred by assignment, we have provided (section 232) that notice of any application to execute it shall be given to the transferor and the judgment-debtor, and that it shall not be executed until the Court has heard their objections (if any) to such execution.

When the judgment-debtor dies before the decree is fully executed, and application is made to have it executed against his legal representative to the extent of the assets which are in his hands, we have empowered (section 234) the Court to compel the representative to produce his accounts.

We think (section 235) that applications for the execution of decrees should be verified like plaints, and that they should state whether any and what previous applications have been made, and with what result.

We have provided (section 236) for the verification of the descriptions of immoveable property sought to be attached.

The mode of executing decrees.

In section 244 (=section 329 of Bill No. III) we have omitted the clause as to questions relating to sums alleged to have been paid in discharge or satisfaction of a decree. This will get rid of the ambiguity arising from the provisions of section 206 of Act VIII of 1859 as compared with section 11 of Act XXIII of 1861.

We have directed (section 245) that applications for execution shall be rejected or returned for amendment when the needful particulars or inventories are wanting. Every such amendment will be attested by the Judge's signature. We have provided in the same section that in executing a decree for money, the value of the property attached shall as nearly as possible correspond with the amount of the decree.

We have omitted as useless the clause as to the execution of a decree for the share of a dwelling-house of an undivided Hindú family.

When a decree against a surety is executed, we have provided (section 253) for giving him previous notice.

We have introduced a section (254 = Order xlii, Rule 8) providing for the execution of a decree against partners in the name of the firm.

We have provided (section 258) that, when moneys payable under a decree are paid out of Court to the decree-holder, he shall certify the payment to the Court whose duty it is to execute the decree. We have omitted the proviso in section 203 of Bill No. III that decrees for the recovery of wives were to be declaratory only. We are informed that, in the Panjáb at least, such a rule would have worked unsatisfactorily.

We have provided (section 260) for the enforcement of injunctions, and declared in the same section that no attachment issued to enforce an injunction, or a decree for specific performance, shall remain in force for more than a year.

Attachment of Property.

We have exempted (section 266) from attachment and sale in execution of a decree the following articles:—the necessary wearing apparel of the judgment-debtor's wife and children, the tools of artizans: implements of husbandry: cattle kept *bonâ fide* for agricultural purposes: the materials of houses and other buildings belonging to and occupied by agriculturists: political pensions: the salaries of servants of Railway Companies: the pay and allowances of persons to whom the Native Articles of War apply: the wages of labourers and domestic servants.

We think that general attachments of the moveable property of judgment-debtors should no longer be permitted, and we have accordingly struck out the clauses (210, 235, 236, and part of 231) of Bill No. III relating to this subject. Ample power to obtain discovery as to such property is given by section 267.

We have provided (section 268) that no attachment to enforce a decree for a specific moveable 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 the decree-holder such compensation as it thinks fit, and pay the balance to the judgment-debtor.

We have empowered (section 269) the Local Government to make rules for the maintenance and custody of livestock and other moveable property while under attachment, and directed the attaching officer to act in accordance with such rules.

We have provided rules (section 271) for the attachment of moveable property in rooms actually occupied by native women.

We have introduced a section (273) dealing with the attachment of decrees.

We have provided (section 275) for withdrawing an attachment when the decree under which it has been made is set aside or reversed.

We have struck out the section (307 of Bill No. III = section 272 of Act VIII of 1859) empowering the Court to order the proceeds of property attached under a decree obtained fraudulently to be paid in satisfaction of another decree. The power is rarely used, and the case contemplated is, we think, one for a regular suit, not a summary proceeding.

Sale and delivery of Property.

We think (section 288) that the proclamation of execution sales should state the incumbrances (if any) to which the interest about to be sold is liable, and we have provided that no Judge, &c., shall be answerable for error in the proclamation unless it has been committed dishonestly.

We have struck out the clause (section 280 of Bill No. III) allowing process for attachment and sale of moveables to be issued either successively or simultaneously.

We have provided (section 291) for adjournments of execution-sales, and for stopping them on tender of the debt and costs, or on proof that the amount has been paid into the Court which ordered the sale.

We have forbidden (section 292) all officers conducting or otherwise concerned in sales to bid for or purchase the property sold.

In lieu of providing that the attaching creditor shall be first paid out of the assets realized, and that the surplus shall be distributed amongst the other execution-creditors, we have declared (section 295) that such assets shall (after deducting the costs) be divided rateably among all persons who have, prior to the realization, applied for execution of money-decrees against the judgment-debtor and have not obtained satisfaction. We have also provided that when any property liable to be sold in execution is subject to a mortgage, the Court may, with the assent of the mortgagee, order that the property be sold free from the mortgage, giving to the mortgagee, the same right against the proceeds as he had against the property sold.

Courts inferior to District Courts should not, in our opinion (section 303), have power to sell immoveable property in execution of a decree; but when any such inferior Court thinks that such a sale should be made, we have provided (section 304) that such Court shall refer the case to the District Court to which it is subordinate, and declared that the District Court may then sell as if the decree had been made by itself.

We have amended the section (309) empowering the co-sharer in an undivided estate to claim at sale price a share of such estate sold in execution. If the claim be made before sunset on the day of sale and the claimant then repay to the purchaser the amount of his deposit, the claimant will be substituted for the auction-purchaser.

We have fixed (section 312) sixty days as the time within which the purchaser of immoveable property may apply to set aside the sale on the ground that the judgment-debtor had no legally saleable interest therein.

We have by section 316 provided (in accordance with Act XI of 1859, section 28, and Schedule A) that the purchase shall be deemed to take effect from the date of the attachment.

As to sales of land by Collectors, we have substituted for section 276 of Bill No. III a clause (320) providing that the Local Government may, transfer to the Collector of any District the execution of decrees in cases in which a Court has ordered any interest in immoveable property to be sold. And we think (section 321) that whenever the execution of a decree has been so transferred, the Collector, if he thinks that the debts of the judgment-debtor can be discharged without a sale of the whole of the property, should, notwithstanding the order, have power to sell only part, or to mortgage the whole or any part, of the land, or to let or manage it himself for a term not exceeding twenty years from the date of the order. Where the Collector lets or manages we have provided (sections 322, 323) for giving notice to the judgment-creditors to come in; for excluding all other claimants from any right to payment out of the proceeds; for preventing the debtor from incumbering during the term the property so let or managed; and, if at the end of the term the requisite amount has not been raised, for selling such property. Where the Collector sells or exercises the power to mortgage, let or manage, we have required him (section 324) to inform the Court which made the order of sale, to render accounts to such Court and to hold the balance in his hands at its disposal.

Where the sale of immoveable property has been postponed to enable the judgment-debtor to raise the amount of the decree, and the Court authorizes him to sell, mortgage or let the property, we have provided (section 324) that all moneys payable under such sale, mortgage or lease shall be paid into Court and not to the judgment-debtor.

We have omitted (section 325) as unnecessary the power to order security to be taken from the defendant when the Court authorizes the Collector to stay the public sale of land. We have expressly empowered the Local Government (section 326) to make special rules for any territory prohibiting the sale of any class of interests in land in execution of money-decrees.

Arrest and Imprisonment.

We have provided (section 335) that a judgment-debtor may be arrested in execution at any hour and on any day, and that he shall thereupon be brought before the Court, except when the decree is for money and the judgment-debtor pays the amount of the decree and the costs of the arrest. When he is brought before the Court we have directed the Judge to inform him that he may obtain relief under Chapter XX, and if he express his intention so to apply, and if he furnish security for his appearance at any time when called upon, the Court will release him.

When the judgment-debtor fails to pay the amount of principal and interest, we have directed (section 337) the serving-officer to bring him before the Court, and when the serving-officer cannot execute the warrant, we think (section 343) that the Court should examine him on oath as to his inability.

We think (section 339) that no judgment-debtor should be arrested unless and until the decree-holder pays into Court a proper sum for the subsistence of the judgment-debtor from his arrest until he is brought before the Court. We have empowered the Local Government to fix scales of monthly allowances for the subsistence of judgment-debtors in prison.

As to imprisonment in execution of a decree, we have provided (section 341) that a judgment-debtor may be discharged from jail without the order of the Court when the term of his imprisonment is completed; and we think (section 342) that no person should be imprisoned for a longer period than six months, or when the decree is for the payment of a sum not more than Rs. 50, for a longer period than six weeks.

CHAPTER XX.—INSOLVENT JUDGMENT-DEBTORS.

We have here made numerous small amendments, the chief of which are the following:—As to fraudulent transfers, we think (section 351) that the Court need only see that they were not made within two months next before the date of the decree in execution of which the insolvent was arrested or imprisoned. We have provided (section 352) that all creditors, whether mentioned or not in the debtor's application, shall prove their debts. We have provided (section 355) that the receiver of the insolvent's property shall give security, and (section 356) that he may retain as remuneration five per cent. upon the amount of the balance distributed to the creditors. And we have reduced (section 359) from two years to one year the term for which a fraudulent insolvent may be imprisoned.

CHAPTER XXI.—OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

We have added two illustrations to the section (361) as to non-abatement by death where the cause of action survives.

We have provided a limitation (sections 364, 366) for applications under this chapter.

When a suit abates or is dismissed under this chapter, we have permitted (section 371) the person claiming to be the plaintiff's representative to apply to set aside the order of abatement or dismissal.

We have provided (section 372) for cases of assignment pending the suit.

CHAPTER XXII.—OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

We have provided here (section 373) for the case of abandonment of part of the plaintiff's claim, and (section 375) for the finality of decrees passed in accordance with compromises. We have made no other substantial change.

CHAPTER XXIII.—OF PAYMENT INTO COURT.

We have given the Court (section 376) a discretionary power with regard to the payment of deposits in Court to the plaintiff.

Where the Court decides that the defendant's deposit was a full satisfaction of the plaintiff's claim, we have provided (section 379) that the plaintiff shall pay, not the costs of the suit, but the costs incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

CHAPTER XXIV.—OF REQUIRING SECURITY FOR COSTS.

We think that the plaintiff should not be required to furnish security for costs unless a defendant so require. We have altered this chapter (section 380) accordingly.

CHAPTER XXVI.—OF COMMISSIONS.

When a Court inferior to a District Court issues a commission to examine a person residing within its jurisdiction, we have provided (section 385) that the selection of the person to execute the commission shall be subject to such rules as the District Court may prescribe.

We have provided (section 386) that any District Court and Court of Small Causes may issue commissions for the examination of officers of Government who cannot attend the Court without detriment to the public service, and of persons who are about to leave the jurisdiction before the date on which the suit in which their evidence is required is set down for hearing.

No Court inferior to a District Court, other than a Court of Small Causes, should, we think, issue commissions for the examination of persons resident beyond its jurisdiction. We have made a provision to this effect in section 386.

We have declared (section 391) that the provisions contained in this chapter as to the execution and return of commissions shall apply to commissions issued by Foreign Courts. We have struck out the section (385 of the Bill No. III) as to taking the evidence of prisoners. The matter is sufficiently provided for by the Prisoners' Testimony Act.

We have extended to proceedings as well as to suits the sections (392, 395) as to commissions for local investigations, and to examine accounts. In the case of the former class of commissions, when the Local Government has made rules as to the persons to be appointed commissioners, we have required the Court to comply with such rules.

CHAPTER XXVI.—SUITS BY PAUPERS.

We have added (section 402) libel to the list of civil injuries in respect of which a pauper should not be allowed to sue as such.

We think (section 407) that a pauper suing on the original side of the High Court should show that he does not possess property worth Rs. 100 except his wearing apparel and the subject-matter of the suit; and as to fraudulent disposals of property by a pauper, we have provided that the Court need only consider whether such disposal was effected within the two months next before the presentation of the pauper's petition.

We have struck out the sections (406, 407 of Bill No. III) authorizing parties to obtain summonses to witnesses and empowering the Court to make local investigations.

We have provided (section 411) that the Court-fees which would have been payable by the plaintiff, if he had not been allowed to sue as a pauper, shall be a first charge on the subject-matter, if any, recovered by him.

We think (section 414) the plaintiff should be dispaupered if he has entered into any agreement under which any other person has obtained an interest in the subject-matter of the suit.

CHAPTER XXVII.—SUITS BY OR AGAINST GOVERNMENT AND PUBLIC OFFICERS.

We think (section 416) that suits against Government and against public officers for acts done in their official capacity should not be instituted in any Court inferior to a District Court (a similar provision is made by the Bombay Civil Courts Act XIV of 1869, section 32); but we have provided that any such suit may be transferred to a subordinate Court.

We think (section 420) that in suits against a public officer, as well as in those against Government, the summons should be served on the Government Pleader, or on some person appointed to receive process in behalf of Government.

We have provided (section 424) that no suit shall be brought against Government or against a public officer as such until two months next after delivery of a notice in writing, stating the cause of action and the name and residence of the intending plaintiff. We have also provided that every suit against a public officer must be commenced within six months next after the accrual of the cause of action. Similar provisions are contained in the Police Act (V of 1861), section 42, and in various Municipal Acts.

CHAPTER XXVIII.—SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

We have laid down rules (section 430) as to when aliens may sue in the Courts of British India. We have declared (section 431) that a Foreign State may sue in our Courts, provided that it has been recognized by the Governor General in Council, and that the object of the suit is to enforce the private rights of the head or of the subjects of the Foreign State. We have also declared in the same section that the Courts shall take judicial notice of the fact that a Foreign State has not been recognized by our Government. We have barred suits (section 433) against Sovereign Princes, ruling Chiefs, ambassadors and envoys, except with the consent of Government, and declared that such consent shall not be given except in certain cases. We have exempted their persson from arrest under the Code, and we have declared that no decree shall be executed against their property unless with the permission in writing of a Secretary to Government. We have provided (section 434) for the execution in British India of the decrees of the Courts of Native States in alliance with Her Majesty.

CHAPTER XXIX.—SUITS BY AND AGAINST CORPORATIONS AND COMPANIES,

and

CHAPTER XXX.—SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

We have made no change in either of the above chapters.

CHAPTER XXXI.—SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

We have provided (section 442) that notice of application to take off the file plaints filed by or on behalf of minors without next friends, shall be given to the person presenting the plaint. We have altered section 445 (= section 439 of Bill No. III) so as to enable married women to act as next friends. We have required (section 443) the Court in every case, on being satisfied of a defendant's minority, to appoint a guardian *ad litem*, and have consequently omitted the sections (453 and 454 of Bill No. III) as to the assignment of a guardian at the instance of the plaintiff. We have taken the opportunity of declaring (section 443), contrary to the recent decision of Pontifex, J., that a guardian *ad litem* is not a guardian of person or property within the meaning of the Indian Majority Act, 1875. We have struck out as unsuited to the Mufassal the rule requiring an order to change a minor's pleader, and the rule against not giving a day to shew cause, when a decree is made against a minor defendant, and as to making payment to the receiver of money, &c., decreed to a minor. We have omitted from section 463, the provision as to the nature of the evidence contained in the corresponding section (462) of Bill No. III. We have exempted (section 464) from several sections of this chapter minors under the jurisdiction of the Court of Wards, and minors for whose persons or property guardians or managers have been appointed by the Civil Courts under any local law.

CHAPTER XXXII.—SUITS BY AND AGAINST MILITARY MEN.

We have here provided (section 463) for the case where the soldier concerned is serving in military staff employment.

CHAPTER XXXIII.—INTERPLEADER.

We have here merely amended the drafting of two of the sections.

CHAPTER XXXIV.—OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

We have expressly stated (section 477) that the suits in which plaintiffs may apply that security be taken for the defendant's appearance, are suits other than suits for the possession of immoveable property. Where the defendant is imprisoned for failing to give security, we think (section 481) that the maximum term of imprisonment should be six months.

We have provided (section 482) that subsistence allowance shall be paid into Court in the case of every arrest under this chapter.

We have provided (section 488) for removing the attachment when the suit is dismissed. Where property is attached under this chapter, and a decree is given in favour of the plaintiff, we have declared (section 490) that it shall not be necessary to re-attach the property in execution of the decree.

We have struck out the section (492 of Bill No. III) empowering the Court to stay the sale of property already under attachment, when execution of a decree fraudulently obtained is applied for. The reasons for omitting section 308 of that Bill are equally applicable to section 492.

CHAPTER XXXV.—OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

We have empowered (section 492) the Court to grant an injunction to stay a wrongful sale in execution of a decree. We have been informed that the corresponding clause of Act VIII of 1859 (section 92, first sentence,) has been held not to apply to such a case.

We have provided (section 493) that the imprisonment by which injunctions granted under this chapter may be enforced shall not exceed six months.

We have added sections (498, 499, 500) empowering the Court to order the interim sale of perishable articles: the detention, preservation, or inspection of any property forming the subject of the suit: and, for the purposes aforesaid, the entry on or into any land or building in the possession of any party to the suit, the taking of samples, making of observations and trial of experiments. They correspond with the English Order 32, rules 2, 3 and 4.

CHAPTER XXXVI.—APPOINTMENT OF RECEIVERS AND MANAGERS.

We have here expressly provided (section 503) that Receivers and Managers shall pass their accounts, pay the balance due thereon, and be responsible for loss occasioned by their wilful default or gross negligence. We think (section 505) that the powers conferred by this chapter should be exercised only by High Courts and District Courts.

CHAPTER XXXVII.—REFERENCE TO ARBITRATION.

Where an umpire is appointed, we have required (section 509) the Court to fix a reasonable time for the delivery of his award.

We have provided (section 514) for superseding the arbitration where, owing to the fault of the parties, the arbitrator cannot complete his award within the specified period.

We have provided (section 522) that decrees following judgments according to awards shall be final.

When the arbitrator is not named in an agreement to refer, and the parties cannot agree as to the nomination, we have empowered (section 523) the Court to nominate him.

CHAPTER XXXVIII.—OF PROCEEDINGS ON AGREEMENT OF PARTIES.

We have here merely added a direction (section 527) that cases stated under this chapter shall be divided into consecutively numbered paragraphs, and concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby.

CHAPTER XXXIX.—OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

This chapter corresponds with 18 & 19 Vic., c. 67 and Act V of 1866, sections 2 to 8. We have here declared (in accordance with decisions of Bramwell B. and Phear J.) that the defendant shall not be required to pay into Court the sum mentioned in the summons, unless the Court thinks his defence not to be *primâ facie* sustainable or feels reasonable doubt as to its good faith. And we have taken the opportunity of declaring (contrary to the decision of the latter Judge) that the clause corresponding with Act V of 1866, section 2, is not confined to cases in which the bill sued upon, together with mere lapse of time, is sufficient to establish a *primâ facie* right to recover.

Act V of 1866 is now in force in the Charter High Courts, the Chief Court of the Panjáb, the Rangoon Recorder's Court, and the Small Cause Court of Madras. We propose (section 538) to extend the corresponding chapter of the Code also to the Small Cause Courts of Calcutta and Bombay and to the Court of the Judge of Karáchi.

We have omitted chapter XLI of Bill No. III (Bar of Appeals not expressly permitted) as unnecessary. No appeal can lie unless it is allowed by the Code or some other law for the time being in force.

CHAPTER XL.—OF APPEALS FROM ORIGINAL DECREES.

We have struck out the clause requiring appeals to the High Court to be heard by two or more Judges. It would limit the discretion expressly conferred by Act of Parliament and Royal Charter.

We have provided (section 540) that the memorandum of appeal shall be presented by the appellant or his pleader, and shall be accompanied by a copy not only of the decree, but also of the judgment on which the decree is founded.

We have struck out, as likely to work unsatisfactorily, the provisions contained in sections 548—553 of Bill No. III, which authorize the appellant merely to state generally his dissatisfaction with the decree appealed against, and to file his grounds of objection separately.

Where a memorandum of appeal is amended, we have required (section 543) the Judge to attest the amendment.

We have empowered (section 550) the appellate Court, after hearing the appellant, if he appears, to confirm the decision appealed against without sending notice of the appeal to the lower Court or serving such notice on the respondent. A similar rule exists in the Panjáb (Act IX of 1873, section 7), and has been found to work well.

We have laid down rules (section 555) as to the right to begin (*a*) where the appeal is from the whole decree, (*b*) where there are cross-appeals, and (*c*) where the appeal is from only a portion of the decree and there is no cross-appeal.

We have provided (section 560) a period of limitation for applications to re-hear, where judgment has been given *ex-parte* against the respondent.

Where a case is remanded with direction to take specified evidence, we have authorized (section 563) the Court to receive evidence tendered to contradict evidence so taken.

We have redrawn the section (575 = section 589 of Bill No. III) as to decisions of appeals heard by Benches of two or more Judges who differ. When there is no majority on the Appellate Bench which concurs in reversing or varying the decree appealed against, we think that decree should stand.

We have omitted as useless the provision as to sealing the decree in appeal.

CHAPTER XLI.—OF APPEALS FROM APPELLATE DECREES.

We have struck out the clause requiring the pleader presenting an appeal to certify that the grounds are reasonable, and forbidding him to give such certificate unless he has been authorized by the High Court. We have also omitted the clause declaring that an application for a second appeal shall be argued only by the pleader signing such certificate.

CHAPTER XLII.—OF APPEALS FROM ORDERS.

We have declared (section 588) that an appeal shall lie from orders determining whether immoveable property is or is not within the local limits, from orders striking out or adding the names of persons as plaintiffs or defendants, from orders under section 44 adding a cause of action, from orders under section 47 excluding a cause of action, from orders under section 234 as to questions relating to the execution of decrees, from orders under section 176 where a party refuses to give evidence called for by the Court, from orders rejecting applications under section 371, from orders disallowing objections under section 373, and from orders under section 518 modifying an award.

Appeals from orders in insolvency will in all cases lie (section 589) directly to the High Court.

CHAPTER XLIII.—OF PAUPER APPEALS.

Except some trifling omissions, we have made no change in this chapter.

CHAPTER XLIV.—OF APPEALS TO THE QUEEN IN COUNCIL.

We have here provided (section 610) for estimating in Indian currency sums expressed in orders of Her Majesty in Council to be payable in British currency, and we have authorized (section 613) the High Courts to make rules as to the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council.

CHAPTER XLV.—OF REFERENCE TO THE HIGH COURT.

We have extended (section 617) this chapter to questions arising before or in the hearing of a suit and in the execution of a decree. We have struck out the clause providing that references shall be heard by not less than two Judges of the High Court. We have provided (section 621) that when a case is referred, the High Court may alter, cancel or set aside any decree which the Court making the reference may have passed in the suit. We have omitted as useless the section requiring the High Court to fix an early day for hearing references. Our other changes here are merely verbal.

CHAPTER XLVI.—OF REVIEW OF JUDGMENT.

We think (section 622) that powers similar to those given by this chapter to High Courts may usefully be given to District Courts as to cases decided by subordinate Courts, including Courts of Small Causes.

We have struck out the clause empowering an appellant to abandon his appeal and apply for a review. We have extended the clause (624) forbidding (except in certain cases) applications for review of judgments to be made to Judges other than those who delivered them, to cases in which a clerical error has been discovered on the face of the decree. Where the business of the Court whose judgment is sought to be reviewed has been transferred to another Court, we have authorized (section 626) the application to be made to the latter Court. But we think (section 624) that except on the discovery of some new and important matter or evidence or of some clerical error apparent on the face of the decree, no application for the review of a judgment should be made to any Judge other than the Judge who delivered it. Where a review is granted, we have required (section 626) the Judge to record with his own hand his reasons for so doing.

We have omitted the clauses forbidding subordinate Courts to grant reviews without permission of the higher Court.

We think (section 629) that the order granting a review or rejecting an application for a review should be final except where the review has been granted without jurisdiction. Where the application has been rejected in consequence of the failure of the parties to appear, we have provided for restoring in proper cases the application to the file. We have also expressly forbidden the Courts to entertain applications to review orders passed on review or on applications for review.

CHAPTER XLVII.—SPECIAL RULES RELATING TO THE HIGH COURTS.

We have here omitted the following sections of Bill No. III for the reasons respectively appended thereto—

665 (as to the extraordinary original jurisdiction of the High Court): provided for by the Charters,

666 (power to High Court to provide for the exercise of its jurisdiction): ditto,

668 (decision when Judges differ): provided for in the prior part of the Bill,

670 (declaring that acts required to be done by a pleader may be done by an attorney): ditto,

672, 673 (power to refer matters for investigation in chambers): provided for by the Charters,

37, 674 (signature of the Registrar): provided for by the former part of the Bill,

675 (language): unnecessary,

676 (assessors): ditto,

677 (interlocutory orders): ditto,

678 (appearance of vakíls on the original side): can be provided for under the Charters,

681 (obtaining summonses from Registrar): unnecessary,

684 (procedure in testamentary and intestate cases): provided for by rule.

We have empowered the High Court to declare by rule what shall be deemed to be "acts not of a judicial nature," which may be done by the Registrar.

We have declared (section 640) that the following portions of the Code shall not apply to the High Court in the exercise of its ordinary and extraordinary original civil jurisdictions, *viz.*:—

37, recognised agents;

54, clause (*a*), rejection of plaint where relief sought is under-valued;

160, payment into Court of expenses of witnesses;

206, contents of decree;

263, decree for execution of conveyances or endorsement of negotiable instruments.

We have expressly empowered (section 641) the High Court to prescribe forms for its own use.

CHAPTER XLVIII.—MISCELLANEOUS.

We have struck out as now unnecessary the clause (section 686 of Bill No. III) declaring that where the highest Civil Court of appeal consists of a single Judge, he shall have the powers which were (but are not now) vested by this Code in two or more Judges.

We have amended (section 643) the rules as to the names of persons exempt from appearance in Court. We have omitted the following sections of Bill No. III—

687, 688, as to assessors (obsolete and useless),

697, as to verifying false plaints (provided for by the Penal Code),

705, as to ministerial officers (can be provided for executively),

708, as to deposits in lieu of bail (useless).

We have also struck out the clause empowering the Government of India to invest a Chief Commissioner with the powers of a Local Government under the Code. This matter is sufficiently provided for by Act XXXII of 1867.

We have redrawn the section (644) relating to exemption from arrest. It now provides that no judicial officer shall be liable to arrest under the Code while going to, presiding in, or returning from, his Court, and that the parties to a suit and their pleaders, recognized agents and witnesses shall be similarly exempt while going to or attending a Civil Court for the purpose of such suit, and while returning from such Court.

We have struck out the section (698 of Bill No. III) as to certain offences in Court not relating to documents. The matter seems sufficiently provided for by the Code of Criminal Procedure.

We have introduced a section (648 = Act XI of 1865, section 42) enabling registrars of Mufassal Courts of Small Causes to state cases for the opinion of the Judge.

We have provided (section 650) for attaching property situate outside the local limits of the jurisdiction of the Court making the order of attachment.

We have provided (section 653) a punishment for escape from civil custody.

We have empowered (section 654) the High Court to make rules to regulate any matter connected with the procedure of the Courts of Civil Judicature.

SCHEDULE I.—REPEALS.

We have added to this schedule the Lords Day Act (29 Car. II, c. 7): sections 8, 9, 10, 11, the second clause of section 19, sections 22 to 28 (inclusive), 42, and part of 32 of the Mufassal Small Cause Courts Act XI of 1865, parts of Acts XIV and XIX of 1865, and the unrepealed part of Act XXIV of 1866, the whole of Act X of 1867, and so much of sections 15 and 16 of Act XV of 1869 as relates to process issued by a Civil Court. We have also added Act IX of 1873, sections 7, 9 and 10, and Madras Regulation XIV of 1816, section 27.

SCHEDULE II.—SECTIONS EXTENDING TO MUFASSAL COURTS OF SMALL CAUSES.

We have made a few changes in this schedule, the most important of which is the addition of the chapters on interpleader and on reference to the High Court.

SCHEDULE IV.—FORMS.

We have added a few forms—concise statements of claim: statements of defence: temporary injunctions; and we have amended some of the forms of decrees.

We have also made numerous small changes in the wording and arrangement of the Bill, and we think that it has been so altered that it should be republished with this report in the *Gazette of India* and the local Gazettes, and that its further consideration should be stayed till the Council re-assembles in Calcutta.

We desire, in conclusion, to express our acknowledgments of the learning, acuteness and industry evinced by many of the communications respecting the Bill. We would in particular mention those by Mr. Pitt Kennedy the Standing Counsel, Mr. Belchambers the Registrar of the High Court at Fort William, Mr. Plowden the Government Advocate, Panjáb, Mr. Nelson of the Madras Civil Service, Messrs. Field, Maclean, Crosthwaite, and J. W. Smyth, all of the Bengal Civil Service, and Hukm Chand, Extra Assistant Commissioner, Montgomery.

A. HOBHOUSE.
E. C. BAYLEY.
J. INGLIS.
F. R. COCKERELL.
T. C. HOPE.

SIMLA;
The 13th September 1876.

No. IV.

THE CODE OF CIVIL PROCEDURE.

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A Bill to consolidate and amend the Laws relating to the Procedure of the Courts of Civil Judicature.

Preamble. 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:—

PRELIMINARY.

Short title. Commencement. **1.** This Act may be cited as "The Code of Civil Procedure:" and it shall come into force on the day of 1876.

Local extent. 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.

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." "District Court." "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.

"jail." "jail" means the civil jail of the district, or any place appointed by the Local Government for the confinement of persons under civil process:

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

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

"the cause of action." "a part of the cause of action." "the cause of action" means the whole of the circumstances which a plaintiff must allege in order to shew a right to sue, and "a part of the cause of action" means some one of those circumstances:

"judgment." "judgment" means the statement given by the Judge as the grounds of the order or decision by which a suit or appeal is determined:

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

"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." "decree-holder" means any person in whose favour a decree has been made, and includes any person to whom such decree is transferred:

"affidavit." "affidavit" means a declaration in writing sanctioned by the oath of the declarant administered by a Court or person duly authorized for that purpose:

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

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

"public officer" defined. "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.

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

Enactments repealed. **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.

References in previous Acts. 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;

Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma. **4.** Save as provided in 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.

Sections extending to Mufassal Small Cause Courts. **5.** The chapters and sections 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 do not extend to such Courts. But nothing herein contained shall be deemed to enlarge the powers which such Courts now possess for the purposes of effecting attachments or executing decrees.

Saving of jurisdiction and procedure— **6.** Nothing in this Code affects the jurisdiction or procedure—

(a) of Military Courts of Request; (a) of Military Courts of Request;

(b) of officers appointed to try small suits in Bombay; (b) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázárs at Cantonments and Stations occupied by the troops of that Presidency; or

(c) of Village Munsifs and Village Panchayats in Madras. (c) of Village Munsifs or Village Panchayats under the provisions of the Madras Code.

7. With respect to—

Saving of certain Bombay laws. (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 these rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

Code not to apply to Presidency Small Cause Courts, till specially extended. **8.** Save as provided in sections 25, 86, 225 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, 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: References to the High Court.
The eighth Part: Review of Judgment.
The ninth Part: Special Rules relating to the High Court.
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.

Courts to try all civil suits unless specially barred. **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.

Pending suits. **12.** Except where a suit has been stayed under section 19, the Court shall not try any suit in which the matter in issue is also substantially in issue in a previously instituted suit 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, or in any Court beyond the limits of British India established by the Governor General in Council, or before Her Majesty in Council.

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.

Res judicata. **13.** No Court shall take cognizance of any suit, nor shall it try any issue, in which the matter 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.

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 in a former suit brought by the defendant against the plaintiff, shall be deemed to have been a matter substantially in issue in such suit.

Explanation III.—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.

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.

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.

CHAPTER II.

OF THE PLACE OF SUING.

Court in which suit to be instituted. **14.** Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate. **15.** 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 distrained or attached,

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

Provided that suits to obtain relief respecting 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 or 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. **16.** Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

(a) 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

(b) 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; or

(c) the cause of action arises; or

(d) a part of the cause of action arises.

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 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 Dehli 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 Beneras, 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.

(c.) A draws in Simla, a bill on B, who accepts the bill in Calcutta, and returns it by post to A. The bill does not mention any place of payment. It is presented to B in Calcutta, and he fails to pay. One part of the cause of action has arisen at Simla and others at Calcutta. The suit may therefore be brought either in Simla or in Calcutta.

(d.) A signs a contract in Calcutta for the delivery of rice to B at Dehli, and delivers it accordingly. B does not pay the price, and A sues him for it. One part of the cause of action has arisen in Calcutta and another in Dehli. The suit may therefore be brought either in Calcutta or in Dehli.

(e.) A, lets a house in Howrah to B, at a monthly rent payable in Howrah. A dies intestate. C obtains in Calcutta, a grant of letters of administration to A's estate. B allows the rent to fall into arrear. One part of the cause of action has arisen in Calcutta and another in Howrah, and C may therefore sue B for the arrears either in Calcutta or in Howrah.

17. 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.

Forum in suits for compensation for wrongs.

Illustrations.

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

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

(*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.

18. If the suit be for 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.

Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

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.

19. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction only part of the cause of action arose, and where 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;

Power to stay proceedings where the whole cause of action did not arise and all defendants do not reside within jurisdiction.

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.

Application when to be made.

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.

20. Where the Court, under section 19, stays proceedings, and the plaintiff re-institutes 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

Remission of Court-fee where suit instituted in another Court.

institution of the suit in the former Court, and that the plaint has been returned by such Court.

The interval between the institution of the suit and the date of so staying proceedings and the time requisite for proceeding from the Court in which proceedings are stayed to the Court in which the suit is re-instituted shall be excluded in computing the period of limitation prescribed for such suit.

Computation of period of limitation for such suits.

21. 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.

Procedure where Courts in which suit may be instituted are subordinate to the same appellate Court.

22. 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.

Procedure where they are not so subordinate.

23. 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.

Procedure where they are subordinate to different High Courts.

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.

24. If, in a suit for immoveable property, the defendant object to the hearing of the suit on the ground that no part of the property is situate within the local limits of the jurisdiction of the Court in which the suit is instituted, or to which it has been transferred, the Court may by order determine the point;

Suit for immoveable property alleged to be within another local jurisdiction.

and if the Court find that the property or any part thereof is situate within such limits, it shall proceed to try the suit.

25. The High Court or the District Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, with-

Transfer of suits.

draw any suit instituted in any Court 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.

Persons who may be joined as plaintiffs.

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 may seem just.

Court may substitute or add plaintiff for or to plaintiff suing.

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 cause of action. 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.

Persons who may be joined as defendants.

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, hundís and promissory notes.

Joinder of parties liable on same contract.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may sue or be sued, or may be authorized by the Court to defend in such suit, on behalf or for the benefit of all parties so interested.

One party may sue or defend on behalf of all in same interest.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit

Suit not to fail by reason of misjoinder.

deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

32. The Court may, at any time before the issues are settled, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party whether as plaintiff or as defendant, improperly joined, be struck out; and that the name of any party whether plaintiff or defendant, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Court may dismiss or add parties.

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

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

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such summons.

Defendants added to be served.

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.

Where defendant added, plaintiff to amend.

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 issues are settled; and any such objection not taken before the issues are settled shall be deemed to have been waived by the defendant.

Time for taking objections as to non-joinder or misjoinder of parties.

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.

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.

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

Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

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 in such Court, may, except when otherwise expressly provided by this Code, 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:

Appearances &c., may be in person, by recognized agent or by pleader.

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

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

Recognized agents.

(*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.

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

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

Certificated mukhtárs.

(*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.

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

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.

Recognized agents in Panjáb, Oudh and Central Provinces.

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

Service of process on recognized agent.

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.

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

Appointment of pleader.

When so filed, it shall be considered to be in force until revoked with the permission of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or the decree or final order is drawn up.

No advocate of any High Court established by Royal Charter shall be required to file or 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, 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 as if the same had been given to or served on the party in person.

Service of process on pleader.

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

Agent to receive 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.

His appointment to be in writing and to 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, a suit for the portion so omitted or relinquished shall not afterwards be entertained.

Relinquishment of part of claim.

44. *rule a.*—No cause of action shall, unless by order of the Court, be joined with a suit for the recovery of land, except claims in respect of mesne profits or arrears of rent in respect of the premises claimed, and damages for breach of any contract under which the same or any part thereof are or is held.

Only certain claims to be joined with suit for recovery of land.

rule b.—Claims by or against husband and wife may be joined with claims by or against either of them separately.

Claims by or against husband and wife.

rule c.—Claims by or against an executor or administrator as such, may be joined with claims by or against him personally, provided 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 or administrator.

Claims by or against executor.

rule d.—Rules *b* and *c* shall be subject to the provisions of sections 45, 46 and 47.

45. 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.

Plaintiff may join several causes of action.

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 issues are settled, of its own motion or on the application of the defendant, order separate trials of any such causes of action

Court may order separation.

to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are so united, the jurisdiction of the Court to hear the suit shall depend on the amount or value of the aggregate subject-matters.

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 issues are settled 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 proceeding.

Defendant may apply to confine 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.

Court on hearing application may exclude some causes an order amendment.

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

CHAPTER V.

OF THE INSTITUTION OF SUITS.

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

Suits to be commenced by plaint.

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 and the consent of the defendant) be written in English.

Language of plaint.

50. The plaint must contain the following particulars:—

Particulars to be contained in plaint.

(*a*) the name of the Court in which the suit is brought;

(*b*) the name, description and place of abode of the plaintiff;

(*c*) the name, description and place of abode of the defendant, so far as they can be ascertained;

(*d*) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(*e*) a demand of the relief which the plaintiff claims; and

(*f*) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

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

In money-suits.

Illustration.

A sues for mesne profits:

A sues for the amount which will be found due to him on taking unsettled accounts between him and B.

In each of these cases the plaint need only state approximately the amount sued for.

When the plaintiff sues in a representative character, the plaint should shew, 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*.) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*.) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(*c*.) 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 plaint must shew 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 shewn.

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 plaint must shew 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 plaint must shew the ground upon which exemption from such law is claimed.

Grounds of exemption from limitation-law.

51. The plaint 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 person 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.

When the plaint is verified by any person other than the plaintiff, such person shall set forth his knowledge or the grounds of his belief on the subject, and the reason why the verification was not made by the plaintiff.

The verification shall be signed by the person making it in the presence of a witness, who shall also sign it.

Verification to be signed and attested.

The Court may in any case examine such witness as to the fact of the signature, and shall so examine him when the person making the verification does not appear.

53. The plaint may, at the discretion of the Court, and at any time before the issues are settled, 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 plaint 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.

Proviso. Provided that a plaint 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 plaint is amended, the amendment shall be attested by the signature of the Judge.

When the plaint shall be rejected. **54.** The plaint 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 plaint 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, in the case mentioned in section 381, the plaintiff fail to furnish security for the payment of the costs that may be incurred by the defendant:

(*d.*) If the suit appear from the statement in the plaint to be barred by any positive rule of law.

Procedure on rejecting a plaint. **55.** When a plaint is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order.

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

When the plaint shall be returned to be presented to the proper Court. **57.** The plaint 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 15, it appear that no part of such property is situate within the local limits of the Court's jurisdiction:

(*c.*) If, in any other case, it appear that the cause of action, or a material part thereof, did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

Procedure on returning plaint. On returning a 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.

Procedure on admitting plaint. **58.** If the Court consider the plaint admissible, it shall cause the plaintiff to endorse thereon, or to annex thereto, a memorandum of the documents (if any) which he has filed along with it; and the plaintiff 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 file a like number of concise statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall file such statements.

Concise statements.

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

The plaintiff may, by leave of the Court, amend any such statement so as to make it correspond with the plaint.

The chief ministerial officer of the Court shall sign such endorsement 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 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.

Production of document on which plaintiff sues. **59.** If a plaintiff sue upon a document in his possession or power, he shall 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.

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

Procedure in case of documents not in his possession or power. **60.** In the case of any document not in his possession or power he shall, if possible, state in whose possession or power it is, and, when it is in the possession or power of a person not a party to the suit, shall take out a summons against such person, requiring him to file the document in court within such time after the service of the summons as the Court in each case directs, and stating the time so directed.

Suits on lost negotiable instruments. **61.** In case of any suit founded upon a bill of exchange or other negotiable 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 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.

Production of shop-book. **62.** If the document on which the plaintiff sues be an entry in a shop-book or 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.

Original entry to be marked and returned. The Court, or such officer as it appoints in this behalf, shall forthwith mark 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.

Inadmissibility of document not produced when plaint filed. **63.** A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered at the foot of 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.

Summons. **64.** When the plaint has been registered, and the copies or statements required by section 58 have been filed, a summons may be issued to the 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.

Indorsement of claim. **65.** Every such summons shall be accompanied with one of the copies or 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 limits 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 between the place where he resides and the place where the Court is situate, two hundred, miles from the court-house.

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

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

Fixing day for appearance of defendant. **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.

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

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

On issue of summons or 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 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.

Mode of service. **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.

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, 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.

Service to be on defendant in person, when practicable, or on his agent. **75.** Whenever it may be practicable, the service shall be 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.

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 for immoveable property, if the summons cannot be served on the defendant in person, and the defendant have no agent empowered to accept the service of the summons, it may be served 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 the copy of the summons to the defendant personally, or to an agent or other person on his behalf, the serving-officer 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 or on a copy thereof signed and sealed as aforesaid.

Person served to sign acknowledgment.

80. 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, or on a copy thereof signed and sealed as aforesaid, the time when and the manner in which the summons was served.

Endorsement of time and manner of service.

81. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons,

Procedure when defendant refuses to accept service,

or if the serving officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

or cannot be found.

the serving-officer shall return the summons to the Court from which it issued, with an endorsement thereon that he has been unable to serve it.

82. When a summons is returned without having been served, the Court shall examine the serving-officer on oath touching the non-service; and if 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.

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

Effect of substituted service.

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.

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

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 most 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, deliver it to the proper officer of such Court, to be served, endorsed and returned in the manner hereinbefore directed.

Upon the return of the summons by the serving-officer, if it has not been served, the Court to which it has been sent shall examine him on oath touching the non-service and record the result; and the summons shall be sent back 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 cause it to be served in the same manner as if it had issued from such Court,

and, after having been so served, the process shall be returned 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

Procedure if jail be in a different district.

issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

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 situate.

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.

Service through British Resident or Agent of Government.

91. Nothing herein contained shall prevent the Court from substituting 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.

Substitution of letter for summons.

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 or other communication is substituted for a summons, it may be sent by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the person whose appearance is required has an agent empowered to accept the service of the summons, in which case it may be served on such agent.

Mode of sending such letter.

Service of Process.

93. Wherever this Code provides that any notice, summons, letter or other communication may be sent to the person to whom it is addressed by post, proof that the same was correctly addressed to such person at his place of residence, and that it was posted and registered according to the law for the time being regulating the management of the Post Office shall, in the absence of evidence to the contrary, be sufficient proof of the due service and delivery of the notice summons, letter or other communication.

Proof of due service and delivery of process sent by post.

94. Every process required to be issued under this Code shall be served at the expense of the party at whose instance it is issued, unless the Court otherwise directs.

Process to be served at expense of party issuing it.

The sum required to defray the costs of such service shall be paid into Court before the process is issued, within a period to be fixed by the Court issuing the process.

Costs of service.

Postage, where chargeable on any notice, summons, letter or other communication forwarded by post and the fee for registering the same, shall be costs required to be paid as aforesaid within the meaning of this section.

Postage.

In fixing the costs to be paid for service of process, regard shall be had to any law or to any rules issued by the High Court for fixing the amount of such costs.

Fixing of costs of service.

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

Notices and orders in writing how served.

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.

Parties to appear on day fixed in summons for defendant to appear and answer.

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 deposit, within the period fixed by the Court, the sum required to defray the cost of issuing or serving such summons, the Court may order that the suit be dismissed:

Dismissal of suit where summons not served in consequence of plaintiff's failure to deposit costs of issuing it.

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.

Proviso.

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

If neither party appear, suit to be dismissed.

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 making the deposit required within the time allowed 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.

In such case plaintiff may bring fresh suit;

or Court may restore the suit to its file.

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

Procedure if only plaintiff appear.

when summons was duly served.

(*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:

When summons not duly served.

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

When summons served, but not in due time.

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 may direct as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-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.

Procedure where defendant only appears.

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.

Decree against plaintiff by default bars fresh 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.

103. 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.

Procedure where defendant residing out of British India does not appear.

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

Procedure in case of non-attendance of one or more of several plaintiffs.

105. If there be more defendants than one, and one or more of them appear, and the others of them 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.

Procedure in case of non-attendance of one or more of several defendants.

106. 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.

Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.

107. In support of the cause shown by a plaintiff or defendant for failing to appear in person, the Court shall receive any declaration in writing signed by such plaintiff or defendant and verified in manner hereinbefore provided for the verification of plaints.

Court to receive written declaration in support of cause shown for failure to 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;

Setting aside decree *ex parte* against defendant.

and if it be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was 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.

No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. The parties may, at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements, place them on the record, and deal with them as if given in evidence.

Written statements.

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.

Particulars of set-off to be given in written statement.

The Court shall thereupon enquire 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.

Enquiry.

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.

Effect of set-off.

When the defendant, for the purpose of availing himself of the provisions contained in this section, intentionally relinquishes any portion of his claim against the plaintiff, nothing in section 43 shall apply to the portion so relinquished.

Relinquishment of portion of claim for purpose of set-off.

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, in which B seeks the set-off.

(*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.

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

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

Provided 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:

Court may at any time call for written statements.

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 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.

Procedure when party fails to present written statement called for by Court.

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 believes he will be able to prove.

Frame of written statements.

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.

Written statements to be 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.

Rejection of argumentative, prolix or irrelevant written statements.

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.

117. Every allegation of fact in any written statement, if not denied specifically or by necessary implication, or stated to be not admitted by the opposite party, shall be taken to be admitted for the purposes of the suit.

Allegation of fact not denied admitted for purpose of suit.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

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 he 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.

Oral examination of party, or companion of himself or his pleader.

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

Substance of examination to be written.

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

Consequence of refusal or inability of pleader to answer.

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.

Discovery.

121. At any time before the settlement of issues, either party may without any order for that purpose, and 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:

Power to deliver interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court.

122. Interrogatories delivered under section 121 shall be served in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80 and 81 shall, *mutatis mutandis*, apply to the serving officer.

Service of interrogatories.

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.

Inquiry into propriety of exhibiting interrogatories.

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 its 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.

Service of interrogatories on officer of corporation or company.

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.

Power to strike out interrogatories as irrelevant, &c.

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

Time for filing affidavit in answer.

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 *viva 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.

Procedure where a party omits to answer sufficiently.

Admission of Documents.

128. Either party may, by a demand made in writing, within a reasonable time, not being less than four 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.

Power to demand admission of genuineness of documents.

The demand shall be served through the Court in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80 and 81 shall, *mutatis mutandis*, apply to the serving officer.

The admission shall also be made in writing and filed in Court by the other party.

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

If such demand 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.

Production of Documents.

129. 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.

Power to order production of documents during suit.

130. Any party may apply to the Court for an order directing any other 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 or proceeding.

Application for order for discovery of document.

Every such affidavit shall specify which, if any, of the documents therein mentioned the declarant objects to produce.

Affidavit in answer to such order.

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 plaint, written statement or affidavit

Notice to produce for inspection documents referred to in plaint, &c.

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.

Consequence of non-compliance with such notice.

132. The party to whom such notice is given shall, within four 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.

Party receiving such notice to deliver notice when and where inspection may be had.

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.

Application for order of inspection.

134. Except in the case of documents referred to in the plaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application 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.

Application to be founded on affidavit.

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.

Power to order issue or question on which right to discovery depends to be first determined.

136. If any party fail to comply with any order under this chapter to answer interrogatories or for discovery or inspection, which has been served personally upon him, 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 defended;

Consequences of failure to answer or give inspection.

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 of documents, 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.

Court may send for papers from its own records or from other Courts.

Every application made under this section must, if the Court so require, be supported by an affidavit of the applicant or his pleader, showing how the record is material to the suit in which the application is made and that the applicant cannot obtain a duly authenticated copy of the record or such portion thereof as the applicant requires.

Production of Documents at first Hearing.

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 or other things specified in any order made under section 130 at any time before the hearing of the suit.

Documentary evidence to be produced at first hearing.

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.

Effect of non-production of documents.

140. The Court shall receive the documents produced by the parties at the first hearing.

Documents to be received by Court.

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.

Rejection of irrelevant or inadmissible documents.

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, and shall be filed as part of the record:

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

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 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.

Entries in shop-books.

142. When a document is rejected by the Court, it shall be endorsed in the manner specified in the last preceding section with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

Rejected documents to be marked,

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

and returned; unless detained by Court.

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.

Court may order any document to be impounded.

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:

After lapse of time for appeal, document admitted in evidence may be returned.

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:

When document may be returned before time limited.

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

Document not to be returned in certain cases.

145. 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.

Receipt to be given for returned document.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

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

Framing of issues.

They are of two kinds: (1) issues of fact, (2) 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 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.

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

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

Allegations from which issues may be framed.

(*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;

(*c*) the contents of documents produced by either party and placed on the record.

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 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.

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.

No such agreement shall be filed after the Court has recorded issues in the suit, unless the Judge, for some reason to be recorded under his hand, otherwise directs.

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

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

(*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 deliver 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, give 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.

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 give judgment.

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

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 give 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 issue,

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 give 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 give judgment,

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

or if it is unable to give judgment by reason of additional evidence being required, or for any other cause, the Court shall frame and record, under section 146, the issues requiring to be determined.

Procedure where Court cannot give judgment at first hearing.

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 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 absolutely necessary for reasons to be recorded by the hand of the Judge.

157. If, on any day to which the hearing of the suit is adjourned, the parties or either 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 either 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, if the summons be for the final disposal of the suit;

Summons to attend to give evidence or produce documents.

or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only,

obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such disposal or settlement, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce a document.

160. The person applying for a summons shall 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

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

court in which he is required to attend, and for one day's attendance.

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

Procedure where insufficient sum paid in.

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.

Expenses if witness detained more than one day.

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.

Time, place, and purpose of attendance to be specified in summons.

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.

Summons to produce document.

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.

Power to require persons present in Court to give evidence.

Service of Summons on Persons required to give Evidence or produce Documents.

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.

Summons how served.

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.

Time for serving summons.

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:

Attachment of property of absconding witness.

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 cause 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 some conspicuous place of the house in which he is dwelling.

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.

If witness appears, attachment may be withdrawn.

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:

Procedure if witness fails to appear.

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.

Attendance of Witnesses and Consequence of Non-attendance.

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.

Court may of its own accord summon as witnesses strangers to suit.

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.

Persons summoned to give evidence must attend.

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.

When they may 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.

Consequences of non-attendance.

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 reasonable sum for expenses 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 for his appearance at such time and place as it thinks fit, and on such bail being given, may release him.

Consequences of refusal to give evidence or produce documents.

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.

Procedure when witness absconds.

176. If any party present in Court refuses, without lawful excuse, when required by the Court, to give evidence, or to produce such 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.

Consequence of refusal of party to give evidence when called on by the Court.

Nothing in this section enables the Court to decree a claim which on the face of the record is not warranted by law.

Explanation.—"Lawful excuse" means in this section such an excuse as, under the Indian Evidence Act, 1872, justifies a refusal to give the evidence or produce the document required.

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

Person summoned to attend in person if so required.

(*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 between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

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.

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

Proceedings on the Hearing.

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.

Statement and production of evidence by party having right to begin.

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

Rules as to right to begin.

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

Statement and production of evidence by other party.

The party beginning is then entitled to reply.

Reply by party beginning.

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 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 fresh evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on such fresh evidence; 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 hearing, and under the personal direction and superintendence, of the Judge.

Witnesses to be examined in open court.

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 shall, if necessary, be corrected, and shall be signed, by the Judge.

How evidence shall be taken in appealable cases.

183. 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.

Memorandum when evidence is not taken down by Judge.

184. Notwithstanding anything contained in section 182, the Local Government may by notification in the official Gazette permit the evidence of witnesses in any Court or class of Courts to be taken down by the Judge with his own hand in English, and may withdraw such permission,

Local Government may direct evidence to be taken down by Judge with his own hand.

and any Judge may take down the evidence with his own hand in English, if the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object.

185. If the evidence is taken down 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.

When witness may require his deposition to be interpreted.

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.

Any particular question and answer may be taken down.

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 upon the objection.

Questions objected to.

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

Remarks on demeanour of witnesses.

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.

Memorandum of evidence in unappealable cases.

190. If the Judge be rendered unable to take down evidence, or 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 evidence to be taken down, or the memorandum to be made in writing from his dictation in open Court.

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

Every memorandum so made shall form part of the record.

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 deal with evidence taken down by Judge removed before conclusion of suit.

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.

Power to examine witness immediately.

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.

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.

Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. The Court may at any time 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:

Power to order any point to be proved by affidavit.

Provided that where it appears to the Court that the other 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 may on the application of either party order the attendance for cross-examination of the declarant.

When evidence may be given by affidavit.

196. Affidavits shall be confined to such facts as the declarant is able of his 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.

Matters to which affidavits shall be confined.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

197. In the case of any affidavit under this Code—

Oath of declarant by whom to be administered.

(*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 inspecting the documentary evidence on the record, and examining or hearing the witnesses examined by the parties or their pleaders, and hearing the parties in person or by their respective pleaders or recognized 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.

Judgment when pronounced.

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.

Power to pronounce judgment written by Judge's predecessor.

200. The judgment shall be written in the language of the Court:

Judgment to be written in language of Court.

Provided that, if such language is not English or the Judge's mother-tongue, the judgment may be written in English or his mother-tongue.

Proviso.

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.

Translation of judgment.

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 on review.

Judgment to be dated and signed.

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

Judgments of Small Cause Courts.

The judgments 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.

Judgments of other Courts.

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.

Court to state its decision on each issue.

Exception.

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, of its own motion or on that of any of the parties, amend the 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.

Power to amend decree.

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.

Decree for recovery of portion of immoveable property.

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.

Decree for delivery of moveable property.

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 thinks proper 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 not exceeding six per centum per annum on the aggregate sum so adjudged, and on the costs of the suit, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

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.

Payment by instalments.

And on the application of the defendant at any time not more than six months after decree, the Court may order that the amount of the decree 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: provided that, before granting such application, reasonable notice in writing has been given to the plaintiff or his pleader, and that the Court has heard the objections, if any, made by the plaintiff or on his behalf.

Court may order payment by instalments.

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 favour the decree is made, or until the expiration of one year from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

In suits for land, Court may decree payment of mesne profits with interest.

Explanation.—'mesne profits' of property mean those profits which the person 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 enquiry into the amount of mesne profits, and dispose of the same on further orders.

Court may determine amount of mesne profits prior to passing decree, or may reserve enquiry.

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 enquiries to be taken and made, and give such other directions as it thinks fit.

Administration-suit.

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 provable, 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.

Explanation.—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 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.

Suit for dissolution of partnership.

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

If set-off be allowed.

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.

Effect of decree.

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

Certified copies of decree and judgment to be furnished.

CHAPTER XVIII.

OF COSTS.

217. 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.

Costs of applications.

218. 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.

Judgment to direct by whom costs are to be paid.

219. 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:

Power of Court as to costs.

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.

220. 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.

Costs may be set off against sum admitted or found to be due.

221. 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.

Interest on costs.

Costs may be paid out of or charged on subject-matter of suit.

222. There shall be no appeal on a question solely relating to costs except on either of the following grounds (namely)

Questions of costs when appealable.

(*a*) that the costs are payable out of or chargeable on some property; or

(*b*) that the mode in which the costs have been given is inconsistent with some enactment for the time being in force.

Illustration.

A, an incumbrancer upon a certain estate, sues to compel the payment of his charge. The Court decrees him his principal and interest, but refuses his costs. A may appeal against this refusal, for every incumbrancer has a lien for his costs on the property charged.

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.

Court by which decree may be executed.

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 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.

Notice of every such application shall be served on the judgment-debtor, and the Court after hearing the objections which he or his pleader may urge against the application, may send the decree for execution accordingly.

And the Court to which a decree is sent 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 making it wishes it to be executed in Calcutta, Madras, Bombay, or Rangoon, the Court making it may send to the local Court of Small Causes the copies and certificate respectively mentioned in clauses (*a*), (*b*) and (*c*) of section 225; and such Court shall thereupon execute the decree as if it had been passed by itself.

Provided that if the Court passing the decree is subordinate to a District Court, it shall send the decree to the District Court to which it is subordinate, and such Court shall deal with the decree as if it had been passed by itself.

224. 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 hereinafter provided within the jurisdiction of any Court in British India.

Decrees of Courts established by Government of India in Native States.

225. The Court desiring that a decree passed by itself shall be executed by another Court shall send such other Court,—

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

(*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.

Provided that if the Court passing the decree is subordinate to a District Court, it shall send such copies and certificate to the District Court to which it is subordinate, and such Court shall forward them to the Court by which the decree is to be executed.

226. The Court executing a decree 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 Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Court receiving copies of decree, &c., to file same without proof.

227. The copy of the decree and of any order for execution, when filed in the Court to which such copy has been sent for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court.

Transmitted copy of decree or order to have same effect as decree of Court to which it is sent for execution.

228. 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.

Execution by High Court, of decree transmitted by other Court.

229. 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.

Appeal from orders for execution of decrees of other Courts.

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 provisions hereinbefore contained to another Court, then to such Court.

Application for execution.

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 former application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting such 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

(*b*) where the decree 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, or

(*c*) where the decree is for money and the decree-holder and the judgment-debtor have entered into an agreement in writing that the amount decreed, with such interest (if any) as may be therein mentioned, shall be discharged by such instalments as, if duly paid, will discharge the said amount and interest at some time within thirty years from the date of the decree, and such agreement has been filed in Court,—the date of the default in paying the instalment in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent any decree-holder from applying for execution of the same 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.

Any one of several decree-holders may apply.

231. If a decree has been passed in favour 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 representatives 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.

Application by transferee of decree.

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 that 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.

Transferee to hold subject to equities enforcable against original holder.

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.

Enforcement of execution by Court applied to.

233. When the holder of a decree sent under the foregoing provisions for execution by a Court other than the Court which made it, applies for execution of the decree to the Court to which it has been so sent, such Court, or any subordinate Court to which the execution of the decree may be entrusted, shall proceed to execute the decree according to the provisions of this chapter so far as the same are applicable, and, so far as they are not applicable, according to its own rules in the like cases:

Such Court shall not enquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was passed had no jurisdiction to pass it.

If judgment-debtor die before execution, application may be made against his representative.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply for its execution 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.

Contents of application for execution of decree.

235. The application for the execution of a decree shall be in writing, verified in manner hereinbefore provided for the verification of plaints, 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 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.

Further particulars when application is for attachment of immoveable property.

236. 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 plaints.

When application must be accompanied by extract from Collector's register.

237. If the property be land which, whether it pays revenue to Government or not, is 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.

Application for attachment of moveable property to be accompanied with inventory.

238. Every decree-holder applying for an attachment of any moveable property of the judgment-debtor shall annex to his application an inventory of the property to be attached, containing a reasonably accurate description of the same.

C.—Of staying Execution.

When Court may stay 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 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 the person pending the result of the application for such order.

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

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

Liability of judgment-debtor discharged to be retaken.

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.

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

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.

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

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.

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 which by the terms of the decree have been directed to be adjusted in the execution of the decree;

(*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;

(*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 the decree.

D.—Of the mode of executing Decrees.

Procedure on receiving application for execution of decree.

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 238, 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 admitting application.

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:

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.

Cross-decrees.

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.

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.

Explanation III.—This section does not apply unless

(*e*) both decrees are capable of execution at the same time;

(*f*) the parties are the same; 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.

Cross-claims under same decree.

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.

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

Notice to show cause why decree should not be executed.

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,

(*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 the last order 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.

Procedure after issue of notice.

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.

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

Warrant when to issue.

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.

Date, signature, seal and delivery.

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

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

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.

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.

Decree against surety.

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:

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

Decree against partners in name of firm.

254. Where a decree is against partners in the name of the firm, execution may issue in manner following:—

(*a*) against any property of the partners as such:

(*b*) against any person who has admitted in the suit that he is or has been adjudged to be a partner:

(*c*) against any person who has been served as a partner, with the summons, and has failed to appear.

If the decree-holder claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court for leave so to do; and the Court may give such leave if notice of the application has been served on such other person and the liability to execution is not disputed, or, if such liability is disputed, may try and determine the same in any manner in which any issue or question in a suit may be tried and determined.

Decree for money.

255. Every decree or order directing a party to pay money, whether by way of compensation, or costs, or otherwise, shall 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.

Explanation.—A decree for mesne profits or any other matter, the amount of which, in money, is to be subsequently determined, is a decree for money within the meaning of this section.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

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.

Order for payment of money as an alternative.

257. Payment of a sum of money ordered to be paid as the alternative to some other relief granted by the decree shall be enforced in manner hereinbefore provided for the execution of a decree for money.

Modes of paying money under decree.

258. 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.

If the money is paid out of Court or the decree is otherwise adjusted to 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 or his pleader may, within eight days of the date of payment, apply to such Court for an order compelling the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder or his pleader, may make such order.

Decrees for specific moveables, or recovery of wives.

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

Decree for specific performance or restitution of conjugal rights.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, 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.

Decree for execution of conveyances, or endorsement of negotiable instruments.

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.

Form and effect of execution of conveyance by Court.

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 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.

Decree for immoveable property.

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 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:

Delivery of immoveable property when in occupancy of tenant.

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.

Partition of estate or separation of share.

E.—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, hundís, 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, 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:

Property liable to attachment and sale in execution of decree.

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

(*a*) the necessary wearing apparel of the judgment-debtor, his wife and children:

(*b*) tools of artizans, implements of husbandry and cattle kept *bonâ fide* for agricultural purposes:

(*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*) the right to perform the service of an idol:

(*g*) stipends allowed to military and civil pensioners of Government, and political pensions:

(*h*) 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 labourers and domestic servants:

(*k*) an expectancy of succession by survivorship:

(*l*) a right to future maintenance.

Provided also that nothing in this section shall be deemed 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.

Power to summon and examine persons as to property liable to be seized.

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,

Attachment of debt, share and other property not in possession of judgment-debtor.

(*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:

Attachment of moveable property in possession of defendant.

Provided that when the property seized is subject to speedy and natural decay, 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 livestock and other moveable property, and the officer

Power to make rules for maintenance of attached livestock.

attaching property under this section shall, notwithstanding the provisions of the former part of this section, act in accordance with such rules.

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.

Attachment of negotiable instruments.

271. If the person executing any process under this Code directing or authorising 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:

Seizure of property in house.

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.

Seizure of property in zanánás.

272. If the property be deposited in, or 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:

Attachment of property deposited in Court or with Government officer.

Provided that, if such property is deposited in 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 the Court in which such property is deposited.

Proviso.

273. If the property be a decree 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.

Attachment decree.

If the property be a decree 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 execute its decree and to apply the proceeds in satisfaction of the decree sought to be executed. The Court receiving such notice shall comply with such request. And the holder of any decree attached under this clause 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 a proclamation prohibiting the judgment-debtor from alienating the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

Attachment of immoveable property.

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

A copy of the proclamation 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.

Order for withdrawal of attachment after satisfaction of decree.

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.

Private alienation of property after attachment to be void.

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.

Court may direct coin or currency-notes attached to be paid to party entitled.

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.

Investigation of claims to and objections to attachment of attached property.

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

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.

Evidence to be adduced by claimant.

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

Release of property from attachment.

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.

Disallowance of claim to release of property attached.

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

Continuance of attachment subject to claim of incumbrancer.

283. An order under section 280, 281 or 282 shall not preclude the person against whom it is made from instituting a suit to establish the right which he claims to the property in dispute.

Saving of suits to establish right to attached property.

284. A claim to attached property, or an objection to the attachment of such property, shall be made without delay to the Court which ordered the attachment;

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

Claims and objections to be made without delay.

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.

285. Any Court may order that any moveable property, and any Court not subordinate to a District Court may direct that any immoveable 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.

Power to order property attached be sold, and proceeds be paid to person entitled.

F.—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.

Sales by whom conducted and how made.

287. When any interest in 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—

Proclamation of sales by public auction.

(*a*) the interest to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, when the interest 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 interest 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.

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.

Rules to be made by High Court.

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.

Indemnity of judges, &c.

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

Mode of making proclamation.

If the Court so direct, such notification shall also be published in the official Gazette and in some local newspaper.

290. Except in the case of articles subject to speedy and natural decay (which may be sold at once), no sale under this chapter shall 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.

Time of sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale; and every such sale shall be stopped if, before the lot is knocked down, the debt and costs 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.

Power to adjourn sale.

Stoppage of sale on tender of debt and costs, or on proof of payment.

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

Officers concerned in execution sales not to bid for or buy property sold.

293. The deficiency of price (if any) which may happen on a re-sale under this Code, 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.

Defaulting purchaser answerable for loss by re-sale.

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.

Decree-holder not to bid for or buy property without permission.

When a decree-holder purchases with such permission, the amount due on the decree may be taken as payment in whole or in part, as the case may be, of the purchase-money.

If decree-holder purchase, amount of decree may be taken as payment.

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 for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the proceeds, after deducting the costs of the realization, shall be divided rateably among all such persons:

Proceeds of execution sale to be divided rateably among decree-holders.

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

Proviso where property is sold subject to mortgage.

Provided also that when any property liable to be sold in execution of a decree is subject to a mortgage, the Court may, with the assent of the mortgagee, order that the property be sold free from the mortgage, giving to the mortgagee 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.

Rules as to negotiable securities and shares in public Companies.

297. If the property sold be moveable, 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.

Payment for moveable property 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.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

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

Delivery of moveable property belonging to defendant actually seized.

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.

Delivery of moveable property to which judgment-debtor is entitled subject to lien.

301. When the property 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.

Delivery of debts and of shares in public Companies.

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.

Transfer of negotiable instruments and shares.

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 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.

(*c*).—*Rules as to Immoveable Property.*

303. Sales of immoveable property in execution of a decree may be ordered by any Court not subordinate to a District Court.

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

304. Whenever a Court subordinate to a District Court desires that any interest in immoveable property be sold in execution of a decree, it shall refer the case to the District Court to which it is subordinate, and such Court shall have the same power of causing the said interest to be sold as if the decree had been made by itself.

Procedure as to sale of land in execution of decree of subordinate Court.

Nothing in this section applies to Courts of Small Causes.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court conducting the sale that there is reason to believe

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

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.

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.

Where such certificate has been granted and so long as it remains in force, the provisions of section 248 shall not apply, and the year mentioned in that section, clause (*a*), shall be computed from the date of the expiry of the certificate.

The Court may, on the application of the judgment-debtor, sell any other immoveable property of the judgment-debtor in lieu of the property comprised in such order.

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 sunset of 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 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, if the lot has been knocked down to a stranger, any co-sharer may, by application to the officer conducting the sale, claim to take the share sold at the price at which the lot was so knocked down.

Co-sharer of a share of undivided estate sold in execution may claim share on sale-price.

If the claim be made before sunset on the day of sale, and the claimant then repay to the purchaser the amount of his deposit, the claimant shall be substituted for the person to whom the lot has been so knocked down and shall be bound by all the conditions then binding on the purchaser,

and the provisions of the last three preceding sections shall apply.

311. Any person whose interest in 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;

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

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.

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.

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 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, within sixty days from the date of the sale, apply to the Court to set aside the sale on the ground that the person whose interest in the property purported to be sold had no legally saleable interest therein, and the Court may make such order as it thinks fit.

Power to apply to set aside the sale.

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

Confirmation of sale.

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

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

or when it is found that the judgment-debtor had no saleable interest in the property 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 the purchaser a certificate to the effect that he has purchased such property, and such certificate shall be deemed to be a valid transfer of such interest.

Certificate to purchaser of immoveable property.

317. The certificate shall state the name of the person who, at the time of sale, is declared to be the purchaser and the date of the attachment; and the purchase shall be deemed to take effect from such date.

Certificate to state name of actual purchaser.

No person shall maintain any suit against the certified purchaser on the ground that the purchase

Benami purchaser not recognized.

was made on behalf of such other person, or on behalf of some one through whom such other person claims.

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 defendant subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall 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 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 interest in immoveable property to be sold, shall be transferred to the Collector; and rescind or modify any such declaration. 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.

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

321. Whenever the execution of a decree has been so transferred, if the Collector has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such interest, 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) as he thinks fit not exceeding the rate of six per cent. per annum,

Powers of Collector as to execution of decrees so transferred.

(*a*) by selling part of the judgment-debtor's interest in such property or in any other immoveable property:

(*b*) by mortgaging the whole or any part of such interest:

(*c*) by letting on farm, or managing by himself or another, the whole or any part of such interest for any term not exceeding twenty years from the date of the order of sale, or

(*d*) 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 interest, the Collector may exercise all the powers of its owner.

322. If the Collector proposes to proceed under this section 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 the publication.

Procedure of Collector.

Such notice shall be published by being posted at the Court which made the order under section 303, and at such other places (if any) as the Collector thinks fit.

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

323. If on the expiration of 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 judgment-debtor's interest in 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 interest accordingly.

Sale by Collector.

324. Whenever the Collector sells any interest pursuant to the said order of sale or exercises any of the powers conferred upon him by the last preceding section, 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 interest, and shall hold the balance at the disposal of such Court.

Sale, &c., to be reported to Court by Collector.

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

Application of balance.

325. 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 make provision for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of sections 321 to 324 (both inclusive) shall in such case apply to the Collector.

When Court may authorise Collector to stay public sale of land.

326. 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, or prohibiting such sales

Local rules as to sales of land in execution of decrees for money.

(*a*) where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

(*b*) where for reasons of State the Local Government thinks that such class of interests should not be compulsorily transferrable:

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

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

G.—Of Resistance to Execution.

327. If in the execution of a decree for the possession of property, the officer entrusted 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.

Procedure in case of obstruction to execution of decree.

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.

328. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, on the ground that the property is not comprised in the decree or on any other ground, the Court shall enquire into the matter of the complaint, and pass such order as it thinks fit.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. 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 effectual 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 proceedings to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for the punishment of such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term not exceeding thirty days, and direct that the decree-holder be put into possession of the property.

Procedure when obstruction continues.

330. 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;

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

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 of 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, section 9,

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

331. 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 *bonâ 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.

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

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 maner 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, section 9,

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.

332. The order passed under either of sections 330 and 331 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 330 and 331 to have force of decrees, and to be subject to appeal.

333. 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.

334. 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 enquire into the matter of

Obstruction by claimant other than defendant.

the resistance or obstruction, and pass such order thereon as it thinks fit.

The party against whom such order is passed may bring a suit to establish his right to the present possession of the property at any time within one year from the date of such order.

H.—Of Arrest and Imprisonment.

335. 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 jail of the district in which the Court ordering the imprisonment is held, or, when such jail does not afford suitable accommodation, in any other jail 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.

Provided 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.

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 the judgment-debtor express his intention so to apply, and if he furnish sufficient security for his appearance at any time when called upon, the Court shall release him from arrest.

336. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court.

Warrant for arrest to direct judgment-debtor to be brought up.

337. A day shall be specified in the warrant on or as soon as possible after which it is to be returned,

Latest day for return of warrant to be specified.

and unless the amount which the judgment-debtor has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid, such officer shall bring him before the Court with all convenient speed.

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.

Scales of subsistence allowances.

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.

Judgment-debtor subsistence-money.

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.

Subsistence money to be added to amount of decree.

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

341. The judgment-debtor shall be discharged from jail,

Release of judgment-debtor.

(*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 cannot be re-arrested under the decree in execution of which he was imprisoned.

342. No person shall be imprisoned in execution of a decree for a longer period than six months;

Imprisonment not to exceed 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.

When not to exceed six weeks.

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.

Endorsement on warrant.

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.

Power to apply to be declared an insolvent.

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 place 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,

(*a*) order him to be immediately committed to jail; or

(*b*) leave him in the custody of the officer of Court 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 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 within two months next before the date of 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 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 frame a schedule of the persons who have proved themselves to be the insolvent's creditors, and of their respective debts; and the declaration under section 351 shall be deemed to be a decree in favour 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.

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 he 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.

Effect of order appointing Receiver.

354. Every order under section 351 shall be published in the 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.

Receiver to give security and collect assets.

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.

Discharge of insolvent.

Duty of Receiver.

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 at 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.

His right to remuneration.

Delivery of surplus.

Effect of discharge.

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.

When Court may declare insolvent absolved from further liability.

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.

Procedure in case of dishonest applicant.

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 not exceeding 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.

Investment of other Courts with powers of District Courts.

Transfer of cases.

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.

(*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.

Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.

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.

Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.

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.

Proceeding where no application made by representative of deceased plaintiff.

364. If no application be made to the Court within a reasonable time not exceeding thirty days 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, 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.

Proceeding in case of death of sole, or sole surviving, plaintiff.

366. If no such application be made to the Court within a reasonable time not exceeding thirty days 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;

Abatement where no application by representative of 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 and for proceeding with the suit in order to a final determination of the matter in dispute.

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.

Procedure in case of dispute as to representative of deceased plaintiff.

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,

Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.

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 the wife alone.

Suit not abated by marriage of female party.

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.

When plaintiff's bankruptcy or insolvency bars suit.

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, within eight days after such neglect or refusal, apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be recovered from the plaintiff's estate.

Procedure when assignee fails to continue suit or give security.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Effect of abatement on parties' rights.

But the person claiming to be the 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.

Application to set aside abatement or dismissal.

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.

Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the suit, but before judgment, 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 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.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

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 mutual 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, and such decree shall be final.

Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

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.

Deposit by defendant of amount in satisfaction of 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 file in Court a statement to that effect, 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.

Procedure where he accepts it as satisfaction in full.

Illustrations.

(*a*). A owes B Rs. 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 shewn that the litigation was necessary.

(*c*). A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 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. When the plaintiff ordinarily resides out of British India, and does not possess any sufficient immoveable property within British India independent of the property in suit, he shall, if any defendant so requires, on presenting the plaint or within such time as the Court may fix, furnish security for the payment of the costs that may be incurred by the defendant.

When security for costs is to be furnished by plaintiff on presenting plaint.

381. If 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 such plaintiff or plaintiffs does not or do not possess any sufficient immoveable property within British India independent of the property in suit, the Court may, 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 such defendant.

When security for costs may be required from plaintiff at any stage of suit.

In the event of such security not being furnished within the time so fixed, the Court shall pass a decree against the plaintiff or plaintiffs by default, unless he or they be permitted to withdraw from the suit under the provisions of section 373.

Procedure where requisition is not complied with.

382. A person is considered to be resident out of British India, within the meaning of sections 380 and 381 who 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.

Residence out of British India.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Any Court may by order 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 proceeding 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 issuing the commission thinks proper to appoint to execute the same:

When witness resides within Court's jurisdiction.

Provided that where the Court issuing the commission is subordinate to a District Court, and is not a Court of Small Causes, the exercise of the power conferred by this section shall be subject to such rules as the District Court may from time to time prescribe, as to the officers or persons to whom commissions may be issued.

386. Any District Court and any Court of Small Causes may issue a commission for the examination of—

When witness resides beyond Court's jurisdiction, but in British India.

(*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.

If the suit in which it is desired to issue such commission be pending in any Court (other than a Court of Small Causes) subordinate to the District Court, the District Court may issue it on the application of such subordinate Court.

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. In the case of a person residing at any place not within British India, the Court, if satisfied that the evidence of such person is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a commission for his examination.

When witness is not within British India.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

Court to examine witness pursuant to commission.

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 form part of the record of the suit.

Commission when executed to be returned to Court issuing it with depositions of witnesses.

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

When depositions may be read in evidence.

(*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.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by

Provisions as to execution and return of commissions to apply to commissions issued by Foreign Courts.

(*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.

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:

Commission to make local investigations.

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.

393. The Commissioner, unless otherwise directed by the order of appointment, may 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.

Commissioner may examine parties and witnesses and call for papers.

The Commissioner may also call for and examine documents and other papers relevant to the subject of enquiry.

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.

394. 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.

Report and depositions to be evidence in suit.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

395. 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.

Commission to investigate and adjust accounts.

396. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

Court to give Commissioner necessary instructions.

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his examination.

397. 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 enquiry as is requisite.

Proceedings of Commissioner receivable in evidence.

Power to make further enquiry.

D.—General Provisions.

398. 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.

Expenses of Commission to be paid into court.

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 situated beyond, the limits of British India.

Attendance, examination and punishment of witnesses before Commissioner.

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.

Procedure *ex parte* where parties do not appear.

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.

Suits may be brought *in formâ pauperis*.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed for 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.

What suits excepted.

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.

Application to be in writing.

Contents of application.

404. Notwithstanding anything contained in section 40, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under section 642 or 643, 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 shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Presentation of application.

405. If the application be not framed or presented in the manner laid down in sections 403 and 404, the Court shall reject it.

Rejection of application.

406. If the application be in form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant

Examination of 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.

I presented by agent, Court may order applicant to be examined by Commission.

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,

the Court shall reject the application.

Notice of day for receiving evidence of applicant's pauperism.

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.

Procedure at hearing.

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.

Procedure if application admitted.

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 for service of proce-s) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Costs when pauper succeeds.

Recovery of court-fees.

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 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.

Procedure when pauper fails.

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.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

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.

Dispaupering.

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.

Costs.

415. The costs of an application for permission to sue as a pauper and of an enquiry into pauperism are costs in the suit.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

Suits by or against Secretary of State in Council.

416. Suits by or against the Government shall be brought by or against (as the case may be) the Secretary of State for India in Council.

Courts in which such suits shall be instituted.

No suit against the Secretary of State for India in Council and no suit against a public officer for any act alleged to be done by him in his official capacity shall be instituted in any Court inferior to a District Court. Any such suit may be transferred by order of the Court in which it is instituted to any Court subordinate thereto, and otherwise competent to entertain such suit.

Nothing contained in the second paragraph of this section shall affect suits to which Government is a party, the trial whereof is provided for by any local law.

Persons authorized to act for Government.

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.

Plaints in suits by Secretary of State in Council.

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."

Agent of Government to receive process.

419. The person appointed to act as pleader on the part of Government in any Court, shall be the agent of the Government for the purpose of receiving processes against the Government or the said Secretary of State in Council, issuing out of the Court in which such person may be the pleader of Government.

Service on Government Pleader.

420. If the suit be against the said Secretary of State in Council or against a public officer for any such act as aforesaid, the summons shall be served on the Government Pleader of the Court in which the suit is instituted, or on any other person appointed to receive process on behalf of the Government.

Appearance and answer by Secretary of State in Council.

421. 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.

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.

Service on public officers.

422. If the defendant be 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 shall appear to the Court that the summons may be most conveniently so served.

Extension of time to enable officer to make reference to Government.

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.

Notice previous to suing Secretary of State in Council or public officer.

424. No suit shall be instituted under this chapter 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, 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.

Unless such notice is proved, the Court shall find for the defendant.

Every suit against a public officer for compensation for an act alleged to be done in his official capacity shall be commenced within six months next after the cause of action arises, and not afterwards.

Application where Government undertakes defence.

425. If the Government undertake the defence of a suit under this chapter 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.

Procedure where no such application made.

426. 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.

Defendant not liable to arrest before judgment.

Exemption of public officers from personal appearance.

427. If in a suit under this chapter against a public officer the Court requires the personal appearance of the defendant, and the defendant satisfies the Court that he cannot absent himself from his duty without detriment to the public service, the Court shall exempt him from appearing in person.

Procedure where decree is against Government or a public officer.

428. 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 decree mentioned in this section unless it remains unsatisfied for the period of three months computed from the date of the report.

Performance of Government Pleader's functions.

429. Where there is no Government Pleader the functions imposed by this chapter on the Government Pleader may be performed by such officer as the Local Government generally or specially appoints in this behalf.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

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.—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 with

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 this section, be deemed to be an alien enemy.

431. A foreign State may sue in the Courts of British India, provided that—

When a foreign State may sue.

(*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.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

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 otherwise) be sued in any competent Court not subordinate to a District Court:

Suits against Sovereign Princes, &c.

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 suit is for the determination of any right to, or interest in, immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

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.

Sovereign Princes, &c., exempt from arrest.

When their property may be attached.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

Execution in British India of decrees of Courts of Native States.

(*a*) declare that the decrees of Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, 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.

Subscription and verification of plaint.

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

Service on Corporation or Company.

(*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 to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Representation of beneficiaries in suits concerning property vested in trustees, &c.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Joinder of executors and administrators.

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.

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.

Husband of married executrix not to join.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

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

Minor must sue by next friend.

of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

Costs.

441. Every application to the Court on behalf of a minor (other than an application under section 450) shall be made by his next friend, or his guardian for the suit.

Applications to be made by next friend or guardian *ad litem*.

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 in writing of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Plaint filed without next friend to be taken off the file.

Costs.

443. Where the defendant to a suit, or respondent to an application, 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 and management of the case.

Guardian *ad litem* to be appointed by the Court.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

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, 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.

Order obtained without next friend or guardian may be discharged.

Costs.

445. Any person, being *sui juris*, 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 or respondent in or to the suit or application.

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 or respondent whose interest is adverse to that of such minor, as to make it unlikely that the interest of such minor will be properly protected by him, or if he does not do his duty, or, pending the suit or application, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of such minor or by a defendant or respondent for his removal, and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly and a guardian for the suit to be substituted.

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.

448. 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.

449. On the death or removal, as aforesaid, of a next friend, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

450. 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.

451. On the appointment of a new next friend his name as such shall thenceforth be inserted in the proceedings.

Name of new next friend to be inserted in proceedings.

452. Before the name of any person can be used as the next friend of a minor, he shall sign a written authority to the pleader for that purpose, which authority shall be filed in Court.

Written authority to act for next friend to be filed.

453. 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.

Course to be followed by minor plaintiff or applicant on coming of age.

If he elects to proceed with it, he shall obtain 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."

If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, obtain an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

When minor sole plaintiff, or sole applicant.

Costs.

In either case the application may be made by petition *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff or co-applicant, on coming of age, and desiring to repudiate the suit or application, must apply to have his name struck out as co-plaintiff or co-applicant.

When minor co-plaintiff or co-applicant.

The application shall be by summons to the next friend, as well as to the defendant or respondent; 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 or matter, shall be paid by such persons as the Court directs.

Costs.

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 or sole applicant, apply to have the suit dismissed.

When suit or proceeding unreasonable or improper.

The application shall be by summons to 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 any thing done in the suit.

Costs.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. The petition must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit or application, adverse to that of the minor, and that he is a fit person to be so appointed.

Petition for appointment of guardian *ad litem*.

457. A co-defendant or co-respondent, if *sui juris*, may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a party applicant, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit dies pending a suit or application against a minor, a new guardian shall be appointed in his place.

On death of guardian, *pendente lite*, new guardian to be appointed.

459. If the guardian for the suit of a minor defendant or respondent 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.

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, and the decree-holder shall serve on such guardian notice in writing 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 such next friend or guardian for the suit shall 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 without the leave of the Court.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

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 Court under any local law.

Wards of Court.

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.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

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 depôt, 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.

Person so authorized may act personally or appoint pleaders.

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 it had been served on the party in person or on his pleader.

Service on person so authorized, or on his pleader, to be good service.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to the commanding officer of such officer or soldier for the purpose of being served on him.

Service on officers and soldiers.

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 bázár, the officer charged with the execution of such warrant shall deliver the same to the commanding officer.

Execution of warrant of arrest in cantonments, &c.

The commanding officer shall back the warrant with his signature, and shall cause the person named therein to be arrested if within the limits of his command, and delivered to the officer so charged of the warrant.

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.

When interpleader suit may be instituted.

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 plaint must, in addition to the other statements necessary for plaints, state—

Plaint in such suit.

(*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.

Payment of thing claimed into Court.

Procedure at first hearing.

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 that a decree has been made in the interpleader suit in favour of the stakeholder, 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.

OF PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

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—

When plaintiff may apply that security be taken.

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.

Order to bring up defendant to show cause why he should not give security.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied

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.

If defendant fail to show cause, Court may order him to make deposit or give security.

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.

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.

Procedure in case of application by surety to be discharged.

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.

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.

Procedure where defendant fails to give security or find fresh security.

481. If the defendant fail to comply with an 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 for a longer period than six months.

Subsistence of defendant arrested.

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.

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

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.

Contents of application.

The application shall, unless the Court otherwise directs, contain a specification of the property required to be attached, and the estimated value thereof.

Court may call on defendant to furnish security or show cause.

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 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.

Attachment if cause not shown or security not furnished.

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.

Withdrawal of attachment.

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 ordered to be attached, the Court shall order the attachment to be withdrawn.

Mode of making attachment.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

Investigation of claims to property attached before judgment.

487. If any claim be preferred to the property attached before judgment, such claims shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

Removal of attachment when security furnished.

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.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

489. Attachment before judgment shall not affect the rights 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.

Property attached under this chapter, not to be re-attached in execution of 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,

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 occasioned to him by the arrest or attachment:

Proviso.

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 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 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.

Injunction to restrain repetition or continuance of breach.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, and whether compensation be claimed in 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 the repetition or the continuance of the breach of contract or wrongful act complained of, or the committing of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

Such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit.

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.

Before granting injunction, Court may direct notice to be given to opposite party.

494. The Court may in all cases, and shall in all cases except where it appears to the Court that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice in writing of the application for the same to be given to the opposite party.

Injunction to corporation binding on its members and officers.

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.

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 occasioned to him by the issue of the injunction:

Proviso.

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.

Power to order interim sale of perishable articles.

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 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, authorise 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, authorise 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 authorised to enter under this section.

Application for such orders to be after notice.

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.

When party may be put in immediate possession of land, the subject of suit.

501. When land paying revenue to Government, or a tenure liable to sale, forms 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.

Deposit of money, &c., in Court.

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 AND DEPOSIT IN COURT.

Power of Court to appoint Receivers.

503. Whenever it appears to the Court to be necessary for the preservation or the better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may

(*a*) appoint a Receiver of such property,

and may, 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 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.

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.

When Collector may be appointed Receiver.

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.

Courts empowered under this chapter.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts. But whenever the Judge of a Court subordinate to a District Court considers it expedient to appoint a Receiver in any suit before him, he shall refer the case to the District Court with his opinion to that effect, and the District Court shall make such order thereon as it thinks fit.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

Parties to suit may apply for order of reference.

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.

Nomination of arbitrator.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

When Court to nominate arbitrator.

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.

Order of reference.

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 in the case provided for by section 512, or unless, owing to the death, refusal, neglect, incapacity or departure from India of the arbitrator, the reference be fruitless, in which case the Court may issue an order superseding the arbitration and restoring the suit to the file of the Court.

When reference is to two or more, order to provide for difference of opinion.

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.

Death, incapacity, &c., of arbitrators or umpire.

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, if any of the parties so desire, may 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.

Appointment of umpire by Court.

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, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Powers of arbitrator or umpire appointed under sections 509, 510, 511.

512. Every arbitrator or umpire appointed under sections 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

Summoning witnesses.

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.

Punishment for default, &c.

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.

Extension of time for making award.

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.

When umpire may arbitrate in lieu of arbitrators.

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.

Award to be signed and filed.

516. When an award in a suit has been made, the persons who made it shall sign it and file it in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing of the award shall be given to the parties.

Arbitrators or umpire may state special case.

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.

Court may, on application, modify or correct award in certain cases.

518. On the application of either of the parties, 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.

Order as to costs of arbitration.

519. The Court may also, on the application of any of the parties or of the persons making the award, 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.

When award or matter referred to arbitration may be remitted.

520. In any of the following cases 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, that is to say:—

(*a*) if the award has left undetermined any of the matters referred to arbitration, or if it determine any matter not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if an objection to the legality of the award is apparent upon the face of it.

Grounds for setting aside award.

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 no award shall be valid unless made within the period allowed by the Court.

Judgment to be according to award.

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:

Decree to follow.

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.

Agreement to refer to arbitration may be filed in Court.

523. When any persons by an instrument in writing agree 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 such Court.

Application to be numbered and registered.

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.

Notice to show cause against filing it.

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.

Provisions of this chapter applicable to proceedings under order of reference.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Filing award in matter referred to arbitration without intervention of Court.

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 whole matter to which the award relates, that the award be filed in Court.

Application to be numbered and registered.

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.

Notice to parties to arbitration.

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.

Filing and enforcement of such award.

526. If no sufficient cause be shown against the award, the Court may order it to be filed, and such award may then be enforced as a decree upon an award made under the provisions of this chapter.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

Power to state case for Court's opinion.

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

(*a*) that upon the finding of the Court in the affirmative or negative of such question, 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*) that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(*c*) that one or more of the parties shall do or perform, or refrain from doing or performing 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 questions raised thereby.

When value of subject-matter must be stated.

528. If the agreement is for the delivery of any property, or for the doing or performing, or the refraining from doing or performing, 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.

Agreement to be filed and numbered as a suit.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court of the lowest grade having jurisdiction in the matter to which it relates, and, when so filed, 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 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.

Parties to be subject to Court's jurisdiction.

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.

Hearing and disposal of the case.

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 of fact or law stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to deliver 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.

Institution of summary suits upon bills of exchange, &c.

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. 168, 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 to 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 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.

Payment into Court of sum mentioned in summons.

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 *primâ 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 *primâ facie* right to recover.

Defendant showing defence on merits to have leave to appear.

533. The Court shall, upon application within the period of seven days from the service of such summons, 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.

Power to set aside decree.

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.

Power to order bill to be deposited with officer of Court.

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.

Recovery of cost of noting non-acceptance of dishonoured bill.

536. The holder of every dishonoured 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 dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Procedure in suits under this chapter.

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.

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

(*a*) High Courts established under Royal Charter;

(*b*) the Chief Court of the Panjáb;

(*c*) the Court of the Recorder of Rangoon;

(*d*) the Courts of Small Causes in the Presidency Towns;

(*e*) the Court of the Judge of Karáchi; and

(*f*) any other Court 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.

PART VI.

OF APPEALS.

CHAPTER XL.

OF APPEALS FROM ORIGINAL DECREES.

Appeal to lie from all original decrees, except when expressly prohibited.

539. 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.

Form of appeal.

540. The appeal shall be made in the form of a memorandum in writing presented by the appellant or his pleader, and shall be accompanied by a copy of the decree appealed against and of the judgment on which it is founded.

Memorandum to be accompanied by copy of decree and judgment.

Memorandum of appeal.

541. The memorandum of appeal 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.

Appellant confined to grounds set out.

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:

Provided that the Court shall not rest its decision on any ground set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection of memorandum or grounds of objection.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, such memorandum or grounds may be rejected or 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.

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.

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

544. If there be more plaintiffs or more defendants than one in a suit, and the decree appealed against proceed 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 reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

Illustrations.

(*a*). A sues B and C on a promissory note. The defendants plead payment. The Court decrees in favour of A. B alone appeals. The Appellate Court, holding that payment has been made, may reverse the decree in favour of both B and C.

(*b*). A sues B and C on a promissory note. B pleads payment and C pleads the Limitation Act. The Court overrules both pleas and decrees in favour of A. B alone appeals. The Appellate Court may be of opinion that payment has been made, but cannot, on B's appeal, reverse the decree as regards C.

Of staying and executing Decrees under Appeal.

Execution of decree not stayed solely by reason of 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.

Stay of execution of appealable decree before time for appealing has expired.

If an application be made for the execution of a decree which is open to appeal, before the time allowed for appeal has expired, the Court may for sufficient cause order the execution to be stayed.

Provided that no order shall be made under this section unless the Court 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

Security required before making order to stay execution.

(*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 in case of order for execution of decree appealed against.

546. If an order is made for the execution of a decree against which an appeal has been preferred, the Court which passed the decree may, on sufficient cause being shewn by the appellant, require security to be given for the restitution of any property which may be taken in

execution of the decree, or 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.

No such security to be required from Government or public officers.

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 from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Of Procedure in Appeal from Decrees.

Registry of memorandum of appeal.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of admission, and shall register the appeal in a book to be kept for the purpose.

Register of appeals.

Such book shall be called the Register of Appeals.

Appellate Court may require appellant to give security for costs.

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 either of the appeal, or of the original suit, or of both:

When appellant resides out of British India.

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 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.

Transmission of papers to Appellate Court.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court to which such notice is sent shall, upon the receipt thereof, transmit with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court:

Power to confirm decision of lower Court without sending it notice.

Provided that 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.

Copies of exhibits in Court whose decree is appealed against.

551. Either party may make an application in writing to the Court against whose decree the appeal is made, specifying any papers of which he requires copies to be made and deposited in such Court; and copies of such papers shall be prepared at the expense of the applicant, and shall be deposited accordingly.

Day for hearing appeal.

552. The Appellate Court shall fix a day for hearing the appeal.

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 a sufficient time to enable him to appear and answer the appeal on such day.

Publication and service of notice of day for hearing appeal.

553. Notice of the day so fixed shall be stuck up in the appellate courthouse, 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 his pleader in the manner provided in chapter VI for the service of a summons to a defendant 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.

Appellate Court may itself cause notice to be served.

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.

Contents of notice.

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*.

Procedure on Hearing.

Right to begin.

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.

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.

Dismissal of appeal for appellant's default.

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.

Hearing appeal *ex parte*.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

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:

Proviso.

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.

Re-admission of appeal dismissed for default.

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.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

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.

Re-hearing on application of respondent against whom *ex parte* decree is made.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may, within thirty days of the date of the decree, 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.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

561. Any respondent, though he may not have appealed against any part of the decree, may, upon the hearing, take any objection to the decree which he could have taken by way of appeal, provided he has given through the Court to the appellant seven days' notice of such objection.

Form of notice, and provisions applicable thereto.

Such notice shall be in the form of a memorandum, and the provisions of sections 540, 541 and 542, so far as they relate to the form and contents of the memorandum of appeal, shall apply to such notice.

A respondent cannot by such notice raise questions between himself and any party to the suit, other than the appellant.

Remand of case by Appellate Court.

562. If without going into the merits, 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, remand the case, together with a copy of the decree or 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

(*a*) to proceed to investigate the suit on the merits, and pass a decree thereon; or

(*b*) to try a particular issue; or

(*c*) to take certain specified evidence.

When further evidence barred.

563. When a case is remanded with directions to take such evidence, 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.

Limit to remand.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

When evidence on record sufficient, Appellate Court shall determine case finally.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court may, if necessary, resettle the issues, and shall 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 Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

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,

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.

Determination of appeal.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Productions of additional evidence in Appellate Court.

568 The parties to an appeal shall not be entitled to produce additional 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 reason for the admission shall be recorded on the proceedings of the Court.

Mode of taking additional evidence.

569. Whenever additional evidence is allowed to be received, the Appellate 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.

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, 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.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which a 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.

Language of judgment.

572. The judgment shall be written in English; provided that if English is 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.

Translation of judgment.

573. When the language in which the judgment is written is not the language 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, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

Decision when appeal is heard by two or more Judges.

575. When the appeal is heard by a Bench of two or 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.

Dissent to be recorded.

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 decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

What judgment may direct.

577. The judgment may be for confirming, varying, or reversing the decree 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.

No decree to be reversed or modified for error or irregularity.

578. No decree shall be varied or reversed 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.

Of the Decree in Appeal.

Contents of decree.

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:

Judge dissenting from judgment need not sign decree.

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.

Copies of judgment and decree to be furnished to parties.

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

Certified copy of decree to be sent to Court whose decree is appealed against.

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

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 suit.

582. The Appellate Court shall have the same powers in appeals under this chapter in respect to adjournments, granting of time, arrest or attachment before judgment, issue of injunctions, examination of the parties or their pleaders and of witnesses or other persons, issue of commissions, award of interest or mesne profits, separation of misjoined suits, permission to bring fresh suits, or otherwise, as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under chapter V.

Appellate Court to have same powers as Courts of original jurisdiction.

The provisions of such chapter, unless when otherwise provided, shall apply to appeals under this chapter so far as the same are applicable.

583. When a party in whose favour a decree is passed in an appeal under this chapter is desirous of obtaining execution of the same, he shall apply to the 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.

Execution of decree of Appellate Court.

CHAPTER XLI.

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)—

Second appeals to High Court.

(*a*) the decision being contrary to some specified law or usage having the force of law;

Grounds of second appeal.

(*b*) the decision having failed to determine some 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.

585. No second appeal shall lie except on the grounds mentioned in section 584.

Second appeal only on 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 debt, compensation or demand for which the original suit is instituted, does not exceed the sum of five hundred rupees.

No second appeal in certain suits.

587. Every memorandum of appeal under this chapter shall be accompanied by a copy of the decree appealed against,

Provisions as to second appeals.

and the provisions contained in chapter XL shall apply as far as may be to appeals under this chapter,

and the decree made by the appellate Court shall be executed by the Court which made the decree in the suit in which such appeal was preferred, under the rules hereinbefore provided for the execution of decrees in suits.

Execution of decree in second appeal.

CHAPTER XLII.

OF APPEALS FROM ORDERS.

588. An appeal shall lie from the following orders under this Code and from no other such orders:—

Orders appealable.

(*a*) orders under section 19, staying proceedings in a suit,

(*b*) orders under section 24, determining whether immoveable property is or is not within the local limits of the Court's jurisdiction,

(*c*) orders under section 32 striking out or adding the name of any person as plaintiff or defendant,

(*d*) orders under section 44, adding a cause of action,

(*e*) orders under section 47, excluding a cause of action,

(*f*) orders rejecting or returning plaints under section 53, clause (*d*), or section 54, clauses (*b*) and (*d*), or section 57, clause (*c*),

(*g*) orders rejecting applications under section 102 in cases open to appeal for an order to set aside the dismissal of a suit,

(*h*) orders under section 120 where a party fails to appear,

(*i*) orders under section 168 for attachment of property,

(*j*) orders under section 176 where a party refuses to give evidence or produce a document called for by the Court,

(*k*) orders under section 214 as to questions relating to the execution of decrees,

(*l*) orders under section 261 as to objections to draft conveyances or draft endorsements,

(*m*) orders under section 312 for setting aside, or under section 314 for confirming, a sale,

(*n*) orders in insolvency matters under section 351, 352, 357, or 359,

(*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, 503 or 513.

(*s*) orders under section 518 modifying an award,

(*t*) 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.

The orders passed in appeals under this section shall be final.

589. An appeal from any order specified in section 588, clause (*n*), shall lie to the High Court.

Court which shall hear appeals.

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.

590. The procedure prescribed in chapter XL 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.

Procedure in appeals from orders.

591. Except as provided in this chapter, no appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, 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 XLIII.

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, XL, XLI and XLII, in so far as those rules are applicable:

Who may appeal as pauper.

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:

Enquiry into pauperism.

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 enquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such enquiry.

Proviso.

CHAPTER XLIV.

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,

What appeals lie to Queen in Council.

an appeal shall lie to Her Majesty in Council

(*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.

596. In each of the cases mentioned in clauses (*a*) and (*b*) of section 595,

Value of subject-matter.

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.

597. Notwithstanding anything contained in section 595,

Bar of certain appeals.

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, whenever 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 556, is final.

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.

Application to Court whose decree is complained of.

599. Such application must ordinarily be made within six months from the date of such decree.

Time within which application must be made.

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.

Certificate as to value or fitness.

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.

601. If such certificate be refused, the petition shall be dismissed:

Effect of refusal of certificate.

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.

Security and deposit required on grant of certificate.

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,

(*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, the 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.

Revocation of acceptance of security.

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.

Power to order further security or payment.

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.

Effect of failure to comply with order.

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.

Refund of balance of deposit.

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.

Powers of Court pending appeal.

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.

Increase of security found inadequate.

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 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.

Procedure to enforce orders of Queen in Council.

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.

Appeal against order relating to execution.

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.

Amendment of Act IX of 1871, schedule II, No. 169.

612. The first column of No. 169 of the second schedule annexed to the Indian Limitation Act, 1871, shall be read as if the following words were added thereto (that is to say): "or any order of Her Majesty in Council."

Power to make rules.

613. The High Court may, from time to time, make general 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 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.

Publication of rules.

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.

Legalization of existing rules.

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.

Recorder of Rangoon.

614. In sections 595 and 613, 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.

Construction of Bengal Regulation III of 1828, section 4, clause 5.

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.

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 XLV.

OF REFERENCE TO THE HIGH COURT.

Reference of question to High Court.

617. If before or in 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 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 point on which doubt is entertained, and refer such statement with its own opinion for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court may either stay the proceedings or proceed in the suit or appeal notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued in any case in which such reference is made to the High Court until the receipt of the order of that Court.

If a decree has been made its execution shall be stayed 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 suit or appeal in which the reference is made, in person or by their respective pleaders, and shall determine the point so referred to it, 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 suit or appeal 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 suit or appeal.

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 which the Court making the reference has passed in the suit or appeal out of which the reference arose, and make such order as it thinks fit.

Power to alter, &c., decrees of Court making reference.

PART VIII.

CHAPTER XLVI.

OF REVIEW OF JUDGMENT.

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 passed any order contrary to law, and may set aside the decision, or pass such other 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.

The District Court may exercise the like powers as to any case decided by any Court subordinate thereto.

623. Any person considering himself aggrieved—

Application for review of judgment.

(*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 adduced 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.

624. Except on 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.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Form of applications for review.

626. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application.

Application when rejected.

If the Court be of opinion that the review shall be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion:

Application when granted.

Proviso. Provided that—

(*a*) no such review 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 review 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, continue attached to the Court at the time when the application for a review is presented and are not, or is 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.

Application when rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. The order of the Court whether for granting the review or rejecting the application shall be final, except where the review has been granted without jurisdiction, in which case an appeal shall lie.

Order of Court final.

Where the application has been rejected in consequence of the failure of the parties to appear, the applicant may, within fifteen days from such rejection, 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 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 XLVII.

SPECIAL RULES RELATING TO THE 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.

Except as provided in this Part, the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

632. Suits may be tried and determined by the High Court in the exercise of its ordinary original civil jurisdiction, if,

Ordinary original civil jurisdiction of the High Court.

(*a*) in the case of suits for immoveable property, the property or any part thereof is situate, or,

(*b*) in all other cases, the cause of action, or any material part of the cause of action, has arisen, or the defendant or any of the defendants at the time of the commencement of the suit dwells, or carries on business, or personally works for gain, within the local limits of such jurisdiction:

Provided that the leave of the Court be first obtained,

(*c*) in the case of suits for immoveable property where only part thereof is situate within such limits, and

(*d*) in other cases where only part of the cause of action has arisen, or only some of the defendants at the commencement of the suit dwell, or carry on business, or personally work for gain within such limits:

Provided also that no High Court shall, in the exercise of its ordinary original civil jurisdiction, try any case in which the debt, or compensation, or value of the property sued for, does not exceed five hundred rupees, and which falls within the jurisdiction of a Small Cause Court situate within the local limits of such jurisdiction.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

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;

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

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.

635. No attorney shall, under the provisions of this Code, be entitled to address the Court or examine witnesses.

Attornies not to address Court.

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 writs of summons 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 act not of a judicial nature which this Code requires to be done by a Judge, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to perform 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 acts not of a judicial nature within the meaning of this section.

638. The procedure in civil cases brought before the High Court in the exercise of its Admiralty or Vice-Admiralty jurisdiction shall be regulated, so far as the circumstances of the case will permit, by the rules prescribed in this Code.

Procedure in Admiralty cases.

In the following cases in the exercise of such jurisdiction, (namely)—

(*a*) cases in which a ship, or a ship and cargo, has or have been or is or are to be proceeded against or arrested,

(*b*) cases in which goods only have been or are to be proceeded against or arrested, either for the purpose of proceeding against the goods or the freight due thereon,

(*c*) cases in which property has been or is arrested and no party has appeared or appears at the return of the warrant, and

(*d*) all other cases in the exercise of Admiralty or Vice-Admiralty jurisdiction in which the rules contained in this Code are not applicable,

the practice and procedure shall be regulated as nearly as possible by the Rules and Regulations made and ordained by his late Majesty King William the Fourth in Council in pursuance of the Second of William the Fourth, chapter 51, and touching the practice to be observed in the several Courts of Vice-Admiralty in the Colonies, except so far as such rules may be inconsistent with the Twenty-fourth and Twenty-fifth of Victoria, chapter 104, or with the Letters Patent granted in pursuance thereof.

639. In suits for mariners' wages brought before the High Court in the exercise of Admiralty or Vice-Admiralty jurisdiction, any number of mariners belonging to the same ship or serving under the same owner may proceed jointly in one suit.

Joinder of mariners in suits for wages.

640. 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 37, 54 clause (*a*), 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 206, 261, 403, 404, 405,

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.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

Code not to affect High Court in exercise of insolvent jurisdiction.

641. The High Court shall have power to frame forms for every proceeding in such Court, for which the High Court thinks it necessary that forms should be provided, and for keeping all books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLVIII.

MISCELLANEOUS.

Exemption from Personal Appearance.

642. 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.

Exemption of certain women from personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

643. 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.

Local Government may exempt certain persons from personal appearance.

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.

List of names of persons exempted to be kept in subordinate Court

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.

Costs of commission rendered necessary by claiming privilege.

Exemption from Arrest.

644. 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.

Persons exempt from arrest.

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.

Offences in Court.

645. 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 Indian Penal Code, which may be made in respect to any document offered in evidence in the case, the Court may send the person accused in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

Procedure in case of certain offences relating to documents.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall 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.

Forms.

646. Subject to the power conferred on the High Court by section 640 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.

Use of forms in fourth schedule.

Language of Courts.

647. 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 Court until the Local Government otherwise orders;

Language of subordinate Courts.

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.

Statement of Cases by Registrars of Small Cause Courts.

648. 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.

Miscellaneous Proceedings.

649. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court, 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.

Civil Process for Attachment, Sale or Payment.

650. If any property to be attached under this Code is situate without the local limits of the jurisdiction of the Court making the order of attachment, such Court, if a District Court, shall send to the District Court within the local limits of whose jurisdiction such property is situate, a copy of the order together with the probable amount of the costs of the attachment.

Procedure when property to be attached is situate outside the local limits of jurisdiction.

Such District Court shall, on receipt of such copy and amount, cause the attachment to be made as if the original order of attachment had been made by itself, and inform the Court by which such order was made or transmitted of the making of the attachment.

If the Court making the order of attachment is subordinate to a District Court, it shall send such copy to the District Court to which it is subordinate, and such Court shall, if it think fit, deal with the order as if it had been made by itself.

651. The rules contained in chapter XIX shall be applicable to the execution of any judicial process for 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 sale or payment.

Witnesses.

652. 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.

Escape from Custody.

653. 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 be punished with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees, or with both.

Penalty for escaping from custody under Code.

Subsidiary Rules.

654. 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. 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 as 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.	The whole Act, except sections 15 and 192.
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 preealed.
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.

THE FIRST SCHEDULE.

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 "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 7, 9 and 10.
VI of 1874 ...	The Privy Council Appeals Act, 1874 ..	The whole.

C.—REGULATION REPEALED.

Madras Regulation XIV of 1816.	Vakíls	Section 27.

THE SECOND SCHEDULE.

(See section 5.)

Chapters and Sections 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 19, para. 4, and sections 21 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the suit, except sections 42, 44 rule *a*, 45, 46 and 47.

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, para. 1, 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 and 214.
CHAPTER XVIII.—Sections 219, 220 and 221, of Costs.
CHAPTER XIX.—Of the Execution of Decrees, sections 230 to 235 (both inclusive), 238 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, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 302 (both inclusive), 335 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 403.
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.
CHAPTER XXXVII.—Reference to Arbitration, sections 506 to 522, both inclusive.
CHAPTER XXXVIII.—Of proceedings on Agreement of Parties.
CHAPTER XLV.—Reference to High Court.
CHAPTER XLVI.—Of Review of judgment.
CHAPTER XLVIII.—Miscellaneous, sections 642 to 649, both inclusive, sections 651, 652, 653 and 654.

THE THIRD SCHEDULE.

(*See section* 7.)

Bombay enactments.

Bombay Regulation XXIX, 1827.
" " VII, 1830.
" " I, 1831.
" " XVI, 1831.
Act XIX of 1825.
" XIII of 1842.

WHITLEY STOKES,
Secy. to the Govt. of India.

Continuation sheets of the Gazette, Part V, published at Simla on this date.

THE FOURTH SCHEDULE.

(*See section* 646.)

FORMS OF PLEADINGS AND DECREES.

A.—PART I. PLAINTS.

No. 1.

FOR MONEY LENT.

IN THE COURT OF AT

Civil Regular 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 , he lent the defendant rupees repayable on demand [*or* on the day of].

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.

2. That on the day of 18 [*or*, on some day unknown to the plaintiff, before 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.

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 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.

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 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 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 bighás 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 paymentof 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 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 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 necessaries.

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 necessaries, 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.

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 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 notice 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 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. 90,000, 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 others] 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* 2, 3 *and* 4 *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 Regular 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 [days after date, *or* sight thereof], rupees

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.

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 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 indorsement 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 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.

(*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, 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.

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.

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 SURETIES FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. 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 *E. 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.

[*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 on the day of 18 , the plaintiff again demanded such conveyance [*or*, that the defendant refused to execute the same].

4. 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*].

5. 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 [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 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 jugdment.*]

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 1860 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's 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.

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 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 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.

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 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 so 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 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 , 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 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 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:—

1. The plaintiff is a shoe-maker, carrying on business at
The defendant 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.

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 , a merchant, doing business in the city of

2. That on the day of 18 , at , 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.

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 police 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 he is 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 estimated value rupees *or*, of the house No. , street in the town of Calcutta the estimated value of which is rupees].

2. That the defendant withholds the possession thereof 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 deed, 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 deed the defendant covenanted to keep the said house and premises in good and tenantable repair.

3. The said deed 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 damages 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 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.

(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.*

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 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.

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 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.

[NOTE.—See *Wood* v. *Rowcliffe*, 3 Hare 309. And see 2 Giff. 64.]

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 plainitff 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 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 shew good cause to the contrary.

[*N. B.—Where the suit is by a beneficiary, the pluint 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.

For 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 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. Divers 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
Pleader for the plaintiff, *or* by

[*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.

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 contribution.
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 solicitors.	The plaintiff's claim is rs. for fees for work done [and money expended] as a pleader. rs.
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 defendant under colour of the office of
Money overpaid.	The plaintiff's claim is rs. for a return of money overcharged 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 stake-holder.	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.
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.*]
Money paid by surety for defendant.	The plaintiff's claim is rs. for a return of money paid as a deposit upon shares to be allotted.
Rent paid.	The plaintiff's claim is rs. for money paid for the defendant as his surety.
Money paid on accommodation-bill.	The plaintiff's claim is rs. for money paid for rent due by the defendant.
Contribution by surety.	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* indorsed] for the defendant's accommodation.
By co-debtor.	The plaintiff's claim is rs. for a contribution in respect of money paid by the plaintiff as surety.
Money paid for calls.	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 payable under award.	The plaintiff's claim is rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff
Life-policy.	The plaintiff's claim is rs. for money payable under an award.
Money-bond.	The plaintiff's claim is rs. upon a policy of insurance upon the life of *X. Y.*, deceased.
Foreign judgment.	The plaintiff's claim is rs. upon a bond to secure payment of rs. and interest.
Bills of exchange, &c.	The plaintiff's claim is rs. upon a judgment of the Court in [the Empire of Russia].
	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.
Surety.	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.*].
Calls.	The plaintiff's claim is rs. for calls upon shares.

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 writ is to be served out of the jurisdiction, or notice in lieu of service is allowed, 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.

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.
The plaintiff's claim is for damages for slander.

Replevin; wrongful distress. 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, and whether the claim be for damages only, or for double value*].

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.

Insurance. 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.

Landlord and tenant. 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.

Medical man. The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal. The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence. The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.
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.

Lord Campbell's Act. 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.

Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods. 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.*].

Sale of goods. The plaintiff's claim is for damages for breach of warranty of a horse.

Sale of land. 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.

Trespass on land. The plaintiff's claim is for damages for wrongfully entering the plaintiff's land an drawing water from his well [*or* cutting his grass, *or* pulling down 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].

Support. The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house, *or* mine].

Way. The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or* private, way].

Watercourse, &c. 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.

Pasture. 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.*]

Light. The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Sporting. The plaintiff's claim is for damages for the infringement of the plaintiff's right of sporting.

Patent. The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Copy-right. The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.

Trade-mark. The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade-mark.

Work. 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.

Nuisance. 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.*].

Injunction. [*Add to indorsement*]:—and for an injunction.

Mesne profits. [*Add to indorsement where claim is to land, or to establish title, or both*]:—and for mesne profits.

Arrears of rent. and for an account of rents or arrears of rent.

Breach of covenant. 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 any thing, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

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

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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 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.*

By husband and wife executrix. 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

Trustees. 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].

Public officer. 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

Heir and devisee. 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.*

F.—MISCELLANEOUS.
No. 116.
Section 58 of the Code of Civil Procedure.

COURT of the 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.	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 payment of Arrest, and date of every Return.

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.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas 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, if 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. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

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 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.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a 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.

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 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 Regular 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 Miscellaneous No. of 18 .

The day of 18 .

A. B. of
against
C. D. of

Read proceeding from the forwarding for service on in 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.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 interogatories 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 Regular 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.

SUBPŒNA.

Section 159 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 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 169.

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.

Section 163 of the Code of Civil Procedure.

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 without the leave of the Court.

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 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.	Rs.	A.	P.	DEFENDANT.	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 attendance ...				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, 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 to 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, devisees, 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 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 seised 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 Rs. 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 plaintiffs' 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 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 214 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 good will 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

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No. 133.

PARTNERSHIP. FINAL DECREE.

Section 214 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 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 ainder 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.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 Regular No. 18 , this is to give you notice that you are to appear before this Court on the 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. 135.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANTS POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 255 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS on the day of was ordered, by decree of this Court, passed 18 , in Regular 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			
Total of decree . .			
Interest thereon . .			
Costs 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. 136.

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 has been decreed to , 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. 137.

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 Regular Suit, No. of 18 , whereby certain land or immoveable property was adjudged to , it is ordered that the said 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. 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 favour 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.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT BEING 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 Regular 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, and that you, the said , 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

Company , Manager of

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Regular 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 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.

(*Title.*)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 , in Civil Regular 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 Regular No. of 18 .

A. B. of

against

C. D. of

To

SIR,

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 the person addressed, on what account, &c.), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Dated the day of 18 .

Judge.

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 Regular No. of 18 .

Miscellaneous No. of 18

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Regular No. 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.

APPOINTMENT OF A MANAGER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 favour of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Manager of the said property under section 269 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. 145.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES BEING GIVEN.

Section 325 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of

against

C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated , representing that the sale in execution of decree in this suit of land, lying 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 honour to be,

SIR,

Your obedient Servant,

L. S.

Judge.

No. 146.

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 Regular 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 right, title and interest of in and to the property attached under a Warrant from this Court dated the of 18 in execution 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.

* 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; you shall also declare that the sale extends only to the right, title and interest of the defendant in the property specified therein.

No. 147.

ORDER CONFIRMING SALE OF LAND, &C.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of

against

C. D. of

WHEREAS the right, title and interest of in 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. 148.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of

against

C. D. of

THIS is to certify that has been declared the purchaser at a sale by public auction on the day of 18 of the right, title and interest of in 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. 149.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT .

Civil Regular 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. 150.

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 Regular 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 18 .

L. S.

Judge.

No. 151.

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 Regular 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. 152.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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

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 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. 153.

WARRANT OF ARREST IN EXECUTION.

IN THE COURT OF AT

Civil Regular No. of 18 .
Miscellaneous No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS was adjudged by a decree of the Court, in Regular No. of 18 , dated 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 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. 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.

Principal			
Interest			
Costs			
Execution			
TOTAL .			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 154.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 225 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 Regular 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. 155.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 Regular 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. 156.

NOTICE OF PAYMENT INTO COURT.

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. 157.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 interrogatories [*or* vivâ 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.

* Not necessary where the commission goes to another Court.

No. 158.

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 Regular 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. 159.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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. 160.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 security, or to offer a sufficient deposit in lieu of

security, which has failed to do; it is ordered that the said Defendant be committed to custody until the decision of the suit; or if judgment be given against until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 161.

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 Regular No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the 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. 162.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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. 163.

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 Regular 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 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. 164.

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 Regular 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. 165.

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 Regular 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 [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. 166.

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 Regular No. of 18

A. B. of
against
C. D. of

To Defendant and

to

Manager of Company.

It is ordered that , the defendant, be and 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. 167.

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 plaint 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, Oilmongers Street, Hindúpur, 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 (*or* which is contained in p. to p. 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, *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. 168.

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 .

A. B.

To *C.D.*

[***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. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 one thousand eight hundred and

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 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. (L. S.)
C. D. (L. S.)

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 plaintiff and for the defendant, and upon hearing for the plaintiff and 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 HIGH 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 XLII 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* hundí *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 to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the bill of exchange, hundí or promissory note, and all endorsements upon it.*]

No. 173.

MEMORANDUM OF APPEAL.

Section 540 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(*Name, &c., as in Register.*) Plaintiff—Appellant.
(*Name, &c., as in Register.*) Defendant—Respondent.

[*Name of Appellant*] [plaintiff *or* defendant] above-named appeals to the High Court at [*or* District Court at , *as the case may be*] against the decree of in the above suit, dated the day of , for the following reasons, namely [*here state the grounds of objection*].

No. 174.

REGISTER OF APPEALS.

Section 550 of the Code of Civil Procedure.

COURT (*OR* HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 18 .

Date of Memorandum.	No. of appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.					APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Court of what.	No. of Original Suit.	Parties.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

APPEAL from the of the Court of dated the day of 18 .

Respondent.

To

Take notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 18 has been fixed by this Court for the hearing of this appeal.

IF no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

Appeal from the of the Court of dated the day of 18 .

Memorandum of Appeal.

, *Plaintiff*.

, *Defendant*.

Plaintiff [*or* defendant] above-named appeals to the Court at against the decree of in the above suit, dated the day of 18 , for the following reasons, namely;

[*here state the reasons*]

This appeal coming on for hearing on the day of 18 , before , in the presence of for the Appellant, and of for the Respondent, it is ordered—

[*here state the relief granted*]

The costs of this appeal, amounting to , are to be paid by The costs of the original suit are to be paid by

GIVEN under my hand, this day of 18 .

Judge.

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure.

HIGH COURT AT

REGISTER OF APPEALS FROM APPELLATE DECREES.

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree Appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original suit and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

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,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 14, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st September 1876:—

We, the undersigned Members of the Select Committee to which the Bill for consolidating and amending the laws relating to the Procedure of the Courts of Civil Judicature in British India was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Despatch from Secretary of State, No. 4, dated 4th February 1875.
From Sheriff of Calcutta, No. 50, dated 15th April 1875.
Office Memo. from Military Department, No. 181J., dated 9th June 1875, and enclosures.
Despatch from Secretary of State, No. 34, dated 3rd June 1875.
From certain inhabitants of Farrukhábád, dated 6th September 1875.
Endorsement, Home Department, No. 1388J., dated 7th September 1875, forwarding—
Translation of an opinion by Ganpant Rao Yeswant of Satára.
Observations by J. Pitt Kennedy, Esq., Standing Counsel, dated 20th September 1875.
From Government, North-Western Provinces, No. 605A., dated 7th October 1875, and enclosure.
" Government of Bengal, No 3122, dated 4th November 1875, and enclosures.
" Officiating Chief Commissioner, Oudh, No. 5200, dated 9th November 1875, and enclosures.
" Officiating Chief Commissioner, Central Provinces, No. 4071—106, dated 10th November 1875, and enclosure
" Officiating Chief Commissioner, British Burma, No. 1530 194, dated 20th November 1875, and enclosures.
" Vakils of the Madras High Court, dated 26th November 1875.
" Chief Commissioner of Oudh, No. 5687, dated 7th December 1875.
" Registrar, High Court, Calcutta, dated 22nd December 1875, and enclosures.
" Government of Bombay, No. 144, dated 8th January 1876, and enclosures.
" Registrar, High Court, Calcutta, No. 62, dated 15th January 1876, and enclosure.
Endorsement, Department of Revenue, Agriculture and Commerce, No. 105, dated 8th February 1876, forwarding—
Letter from Government of Bombay, No. 7194, dated 22nd December 1875.
From Government of Bengal, No. 470, dated 11th February 1876, and enclosures.
" Government of Madras, No. 243, dated 12th February 1876, and enclosure.
" Government of Madras, No. 436J., dated 8th March 1876, and enclosures.
" Government, North-Western Provinces, No. 62, dated 13th April 1876, and enclosures.
Remarks by L. P. D. Broughton, Esq.
Note by John Shaw, Esq., Registrar, High Court, Madras, dated 22nd May 1876.
Observations by the District Munsif of Travellore, Madras.
From Government of Bombay, No. 3968, dated 6th July 1876, and enclosures.
" Government of the Panjáb, No. 204C, dated 5th August 1876, and enclosures.
" Government of Bombay, No. 4022, dated 10th July 1876, and enclosure.

PRELIMINARY.

We have amended the definition of 'pleader' so as to make it include an attorney of a High Court, and have modified the definition of 'subordinate' Court so as to give District Courts power to control Courts of

Small Causes, and we have added definitions of 'Judge,' 'judgment-debtor,' 'decree-holder,' 'affidavit' and 'public officer.' With the view of encouraging printing in legal proceedings, we have defined 'written' to include 'printed' and 'lithographed.' We have also amended the definition of 'Foreign Court' so as to exclude the Judicial Committee of the Privy Council. We have saved the Central Provinces Courts Act, 1865, the Panjáb Courts Act, 1865, Act XXVII of 1867, and all local laws prescribing a special procedure between landlord and tenant. We have struck out the obsolete references to trials by military officers of small suits in Madras and to District and Military Panchâyats in that Presidency.

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

We have amended the section (13) as to *res judicata* (*a*) by extending it so as to provide for estoppels against defendants, (*b*) by explaining, in accordance with a decision in 10 Bom. 293, that any matter which might and ought to have been made ground of defence in a former suit brought by the defendant against the plaintiff shall be deemed to be a matter substantially in issue in such suit, and (*c*) by providing that decisions alterable on review may be final within the meaning of this section. We have also struck out the clause relating to decisions obtained by arrangement; and we have omitted the illustrations as unnecessary.

CHAPTER II.—OF THE PLACE OF SUING.

We have here provided (section 15) for the venue of suits for compensation for wrongs to immoveable property. In section 19 we have provided for giving notice of motions to stay proceedings where the whole cause of action did not arise within the jurisdiction and all the defendants do not reside therein. Where a Court stays proceedings, we have declared (section 20) that the time required for proceeding from that Court to the Court in which the suit is re-instituted shall be excluded in computing the proper period of limitation.

We have provided (sections 21, 22, 23) for giving notice to the plaintiff where the defendant applies to transfer a suit capable of being instituted in different Courts (*a*) subordinate to the same Appellate Court, or (*b*) not so subordinate.

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

For sections 27, 28, 29, 30, 40 and 41 of Bill No. III, we have substituted eight sections as to parties, taken, with some modifications, from the Orders framed under the Supreme Court of Judicature Act, 1875.

We have provided (section 37) that certificated mukhtárs holding special powers of attorney may be recognized agents, and declared that in the Panjáb, Oudh and the Central Provinces recognized agents shall be such persons as the Local Government may by notification declare. This will enable the Local Government to keep, if it thinks fit, the special rules on this subject now in force in those territories.

We have amended the section (41) relating to the appointment of agents to receive process.

CHAPTER IV.—OF THE FRAME OF THE SUIT.

For the sections (44, 45, 46, 47) of Bill No. III, as to joinder of causes of action and multifariousness, we have substituted four sections taken from the Orders above mentioned. When the plaint is amended by excluding any cause of action, we have provided (section 47) that the amendment shall be attested by the Judge's signature.

CHAPTER V.—OF THE INSTITUTION OF SUITS.

We have here provided (section 49) that where English is not the language of the Court, the plaint may, with the permission of the Judge and the consent of the defendant, be in English.

Where the plaintiff has allowed a set-off, or relinquished part of his claim, we have required (section 50) that his plaint should state the amount so allowed or relinquished.

We think that, when once issues have been settled, the plaint should not be rejected, returned for amendment or amended; and we have altered section 53 (=52 of Bill No. III) accordingly. We have provided (section 52) for examining the witness to the verification. We have provided (section 54) for the rejection, &c., of the plaint if it is not framed so as to afford ground for a single decision on the whole subject in dispute and for the attestation of the amendments by the signature of the Judge. Where a plaint is returned we have required (section 57) that the endorsement be made by the Judge himself.

When the plaint is admitted we have required (section 58) the plaintiff to present as many copies as there are defendants, unless the Court permits him to file a like number of concise statements of the nature of the claim made, in which case he will file a like number of such statements. We have made provision in the same section for ascertaining the correctness of thesecopies and statements and of the memoranda of documents filed with the plaint.

Where the plaintiff relies on documents not in his possession, we have provided (section 60) that he shall state in whose possession they are, and where they are in the possession of a stranger to the suit, that he shall take out a summons requiring them to be filed in Court.

From the operation of the section (63) declaring the inadmissibility as evidence for the plaintiff of documents not produced when the plaint is filed, we have excluded documents produced for the examination of the defendant's witnesses or in answer to any case set up by him.

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

We have provided (section 65) that no summons to the defendant to appear and answer shall be issued when he has appeared at the presentation of the plaint and admitted the plaintiff's claim.

Even where railway communication exists, we think that no party should be ordered to appear in person who resides more than two hundred miles from the Court-house, and we altered section 67 (=section 64 of Bill No. III) accordingly.

Where the defendants are partners, we have provided (section 74) for service of the summons on any person having the management of the partnership business.

For the purpose of the section (76) relating to service on an agent by whom the defendant carries on business, we have declared that the master of a ship is the agent of the owner or charterer.

We think (section 81) that the practice of fixing a copy of the summons on the defendant's house should be discontinued, and that when he refuses to receive the copy or sign the acknowledgment of service, and where the serving-officer cannot find the defendant, and there is no one on whom service can be made, the serving-officer should return the summons with an endorsement that he has been unable to serve it, and we have required (section 82) the Court to examine him on oath touching the non-service. A similar provision, where the summons is sent to another Court to be served, is made in section 85.

We have inserted a section (84 = section 58 of Act VIII of 1859) providing that when service is substituted by order of the Court, a time shall be fixed for the defendant's appearance.

We have provided (section 95) for the service of notices and orders in writing.

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

Where neither party appears, we think (section 98) that the suit need not be dismissed when the Judge for reasons recorded under his hand otherwise directs. Where the plaintiff does not appear, but the defendant appears and admits part only of the plaintiff's claim, we have provided (section 102) that the Court shall dismiss the suit so far as relates to the remainder. Where the defendant appears and the suit is wholly or partially dismissed owing to the non-appearance of the plaintiff, and the plaintiff applies for an order to set the dismissal aside, we have provided in the same section that the defendant shall be served with notice of the application.

We have added to this chapter sections corresponding with chapter XXIII of Bill No. III as to setting aside decrees by default and *ex parte*.

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

To the section corresponding with section 105 of Bill No. III, we have added a few illustrations and a clause expressly providing that where the defendant, for the purpose of bringing the sum to be set-off within the pecuniary limits of the Court's jurisdiction, intentionally relinquishes any portion of his claim against the plaintiff, the provision in section 43, barring subsequent suits for sums so relinquished by plaintiffs, shall not apply.

We have allowed (section 112) written statements to be received, with the permission of the Court, at any time for the purpose of answering written statements made by the opposite party at the first hearing. And we think (section 115) that the Court should be expressly empowered to examine witnesses as to the signatures to written statements.

We have provided (section 117) that allegations of fact in written statements shall, if not denied, or stated to be not admitted, by the opposite party, be taken to be admitted *for the purposes of the suit*. We have here made no exception of minors and persons of unsound mind, and in this respect, and in the insertion of the words italicised, the section differs from the English Order XIX, rule 17.

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

We have here provided (section 118) that the Court may, if it think fit, put in the course of the examination questions suggested by either party, and (section 119) that the substance of the examination shall be reduced to writing by the Judge and form part of the record.

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

The first seven sections of this chapter are new. They empower parties to deliver interrogatories in writing and provide for inquiring into the propriety of exhibiting them, for striking out improper interrogatories, for making objections to answering interrogatories, and

for compelling persons to answer sufficiently. They correspond with the English Order XXXI, rules 1 to 10.

As to the admission of documents, we have amended section 128 (=113 of Bill No. III) by requiring the demand for admission to be served through the Court.

We have inserted sections (129, 130) empowering the Court to order production during the suit, and to direct parties to make discovery of documents relating to matters in question. And we have amplified (sections 131, 132, 133) the section (114) of Bill No. III relating to inspection of documents.

Where any discovery or inspection is objected to, and the Court is satisfied that the right to such discovery or inspection depends on the determination of any question in dispute in the suit, we have empowered (section 135) the Court to order that question to be first determined.

We have declared (section 136) that any person disobeying any order to answer interrogatories or for discovery or inspection, which has been served personally upon him, shall be deemed guilty of an offence under section 188 of the Penal Code, and that he shall also, if a plaintiff, be liable to have his suit dismissed, and, if a defendant, to be placed in the same position as if he had not defended.

The power which the Courts now possess under Act VIII of 1859, section 138, of sending for papers from nonjudicial public offices has, we find, been abused. We have therefore withdrawn this power, and persons applying to the Court to send for papers from judicial records will be required (section 137) to show that they cannot obtain the originals or authenticated copies.

We have expressly confined the section (138) requiring documentary evidence to be in readiness at the first hearing to documents in the possession or power of the parties.

We have provided (section 141) that no document shall be placed on the record unless it has been regularly proved or admitted. In the absence of such a provision questions frequently arise on appeal as to whether a document was in evidence or not.

We have provided (section 144) for the return of documents in suits in which an appeal is not allowed, and in all cases we have authorized their return when certified copies are delivered to the proper officer.

CHAPTER XI.—OF THE SETTLEMENT OF ISSUES.

We have exempted (section 146) the Court from the duty of framing and recording issues where the defendant at the first hearing makes no defence. When issues both of law and of fact arise in the same suit, and the Court considers that the case may be disposed of on the issues of law only, we have provided in the same section that the Court shall (not 'may') try the issues of law first. This, we think, will save expense, and will prevent cases being remanded for trial of issues of fact which, in the result, prove wholly irrelevant. As to issues by agreement of parties, we have provided (section 150) that, unless with the special permission of the Judge, no such agreement shall be filed after the Court has recorded issues in the suit.

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

We have here made no change requiring notice.

CHAPTER XIII.—OF ADJOURNMENTS.

We think that the provision in section 138 of Bill No. III that, when the hearing of evidence has once begun, the hearing of the suit shall not be adjourned, except from day to day, might occasionally have led to great inconvenience. We have therefore in section 156 substituted the following: "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 absolutely necessary for reasons to be recorded by the hand of the Judge."

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

We have omitted the power to insert in a summons the names of any number of persons. We have declared (section 165) that the rules contained in chapter VI as to proof of service shall apply in the case of all summonses served on persons required to give evidence or produce documents. Before attaching the property of a witness alleged to have absconded, we think that the serving officer should be examined on oath touching the non-service, and we have made a provision to this effect in section 167. We have omitted as useless the provision of the present law as to payment by the Collector of the costs of summoning a witness.

We have provided (section 173) that no witness who has been summoned and attends shall depart, unless he has been examined and the Court has risen, or he has obtained the Court's leave to go.

We have empowered (section 174) the Court to inflict a fine of Rs. 500 on persons failing to prove that they had a lawful excuse for not obeying the summons; and we have provided that non-payment or non-tender of reasonable viaticum shall be deemed a lawful excuse. When any such person is brought before the Court and cannot, owing to the absence

of parties, give the evidence or produce the document which he has been summoned to produce or give, we have by the same section authorized the Court to release him on bail.

We have declared (section 177) that no witness shall be bound to attend in person unless he resides (*a*) within the local limits of the Court's original jurisdiction, or (*b*) without those limits and less than fifty or (where there is railway communication) two hundred miles from the Court-house. It is obvious that there should be some limit beyond which parties should not be required to travel even by railway.

We have struck out the six sections (157 to 163 of Bill No. III) relating to the examination of parties as witnesses. This matter seems sufficiently provided for by the declaration contained in section 178 (=section 165 of Bill No. III), that when any party to a suit is summoned as a witness, the rules as to witnesses contained in the Code shall apply to him so far as they are applicable.

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

We have inserted (section 179) rules as to the right to begin.

We have provided (section 184) that any Judge may take down the evidence in English if the Local Government permits him to do so, or if the parties do not object.

Where the Judge taking down any evidence is removed from the Court before the conclusion of the suit, we have empowered (section 191) his successor to deal with the evidence as if he himself had taken it down.

Where a witness about to leave the jurisdiction is examined immediately, we have provided (section 192) that his evidence before being used as such shall be read over to him and, if he admits it to be correct, signed by him.

We have empowered the Court (section 193), at any stage of the suit, to recall and re-examine a witness who has not departed.

CHAPTER XVI.—OF AFFIDAVITS.

This chapter is wholly new. It empowers the Court to order any particular fact to be proved by affidavit: provides that evidence may be given by affidavit on any application or petition: indicates the matters to which affidavits should be confined: and lastly, specifies the officers by whom the oaths of declarants may be administered.

CHAPTER XVII.—OF JUDGMENT AND DECREE.

In accordance with a ruling of the Calcutta High Court, we have authorized (section 199) a Judge to deliver a judgment written by his predecessor but not delivered.

We think that, as a rule, the judgment should be written in the language of the Court, but we have provided (section 200) that if such language be not English or the Judge's mother-tongue, the judgment may be written either in English or his mother-tongue. We think (section 201) that the judgment need not be translated, unless any of the parties so require.

We have provided (section 202) that the judgment shall not be altered or added to, save to correct verbal errors or on review.

We think (section 203) that all judgments (save those of Small Cause Courts) should contain a concise statement of the case in addition to the matters mentioned in section 183 of Bill No. III.

We have provided (section 205) that the Judge before signing the decree shall satisfy himself that it has been drawn up in accordance with the judgment.

We have given power to amend the decree not only when it is at variance with the judgment, but also in case of clerical or arithmetical errors: but in all such cases we have provided (section 206) for notice to the parties or their pleaders.

In money-decrees, we think (section 209) that the interest allowed from the date of the decree should not exceed six per cent. per annum. This, we hope, will abolish the practice of treating such decrees as desirable investments.

We think (section 210) that no application for an order to pay the amount of a decree by instalments should be allowed after six months from the date of the decree, and we have provided for notice to the plaintiff of such applications.

In administering the assets of persons dying after the Code comes into force, we have provided (section 213) that the Courts shall be guided by the same rules as to rights of creditors, proveable debts and valuation of annuities, and future and contingent liabilities, as are in force as to the estates of persons adjudged insolvent, and that all persons who would be entitled to dividends out of the estate of any such deceased person, may come in under the decree and make their claims against the estate. We have declared in the same section that applications under section 265 of the Indian Contract Act, to wind up the business of a partnership, shall be deemed to be administration suits.

We think (section 216) that certified copies of the judgment and decree should not be furnished except at the expense of the parties applying for them.

CHAPTER XVIII.—OF COSTS.

We have here made no substantial change.

CHAPTER XIX.—OF THE EXECUTION OF DECREES.

We have distributed the matter of this long and important chapter under eight heads, namely, (*a*) Courts by which decrees may be executed, (*b*) application for execution, (*c*) staying execution, (*d*) the mode of executing decrees, (*e*) attachment of property, (*f*) sale and delivery of property, (*g*) resistance to execution, and (*h*) arrest and imprisonment.

Courts by which decrees may be executed.

For section 330 of Bill No. III, we have substituted a section (223) as to the Court by which a decree may be executed, and prescribing the procedure for sending a decree for execution to a Court other than that which passed it. When the Court passing the decree is subordinate to a District Court, we think it should send the decree to the District Court to which it is subordinate and that such Court should deal with the decree as if it had been passed by itself.

Application for execution.

When a decree has been transferred by assignment, we have provided (section 232) that notice of any application to execute it shall be given to the transferor and the judgment-debtor, and that it shall not be executed until the Court has heard their objections (if any) to such execution.

When the judgment-debtor dies before the decree is fully executed, and application is made to have it executed against his legal representative to the extent of the assets which are in his hands, we have empowered (section 234) the Court to compel the representative to produce his accounts.

We think (section 235) that applications for the execution of decrees should be verified like plaints, and that they should state whether any and what previous applications have been made, and with what result.

We have provided (section 236) for the verification of the descriptions of immoveable property sought to be attached.

The mode of executing decrees.

In section 244 (=section 329 of Bill No. III) we have omitted the clause as to questions relating to sums alleged to have been paid in discharge or satisfaction of a decree. This will get rid of the ambiguity arising from the provisions of section 206 of Act VIII of 1859 as compared with section 11 of Act XXIII of 1861.

We have directed (section 245) that applications for execution shall be rejected or returned for amendment when the needful particulars or inventories are wanting. Every such amendment will be attested by the Judge's signature. We have provided in the same section that in executing a decree for money, the value of the property attached shall as nearly as possible correspond with the amount of the decree.

We have omitted as useless the clause as to the execution of a decree for the share of a dwelling-house of an undivided Hindú family.

When a decree against a surety is executed, we have provided (section 253) for giving him previous notice.

We have introduced a section (254 = Order xlii, Rule 8) providing for the execution of a decree against partners in the name of the firm.

We have provided (section 258) that, when moneys payable under a decree are paid out of Court to the decree-holder, he shall certify the payment to the Court whose duty it is to execute the decree. We have omitted the proviso in section 203 of Bill No. III that decrees for the recovery of wives were to be declaratory only. We are informed that, in the Panjáb at least, such a rule would have worked unsatisfactorily.

We have provided (section 260) for the enforcement of injunctions, and declared in the same section that no attachment issued to enforce an injunction, or a decree for specific performance, shall remain in force for more than a year.

Attachment of Property.

We have exempted (section 266) from attachment and sale in execution of a decree the following articles:—the necessary wearing apparel of the judgment-debtor's wife and children, the tools of artizans: implements of husbandry: cattle kept *bonâ fide* for agricultural purposes: the materials of houses and other buildings belonging to and occupied by agriculturists: political pensions: the salaries of servants of Railway Companies: the pay and allowances of persons to whom the Native Articles of War apply: the wages of labourers and domestic servants.

We think that general attachments of the moveable property of judgment-debtors should no longer be permitted, and we have accordingly struck out the clauses (210, 235, 236, and part of 231) of Bill No. III relating to this subject. Ample power to obtain discovery as to such property is given by section 267.

We have provided (section 268) that no attachment to enforce a decree for a specific moveable 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 the decree-holder such compensation as it thinks fit, and pay the balance to the judgment-debtor.

We have empowered (section 269) the Local Government to make rules for the maintenance and custody of livestock and other moveable property while under attachment, and directed the attaching officer to act in accordance with such rules.

We have provided rules (section 271) for the attachment of moveable property in rooms actually occupied by native women.

We have introduced a section (273) dealing with the attachment of decrees.

We have provided (section 275) for withdrawing an attachment when the decree under which it has been made is set aside or reversed.

We have struck out the section (307 of Bill No. III = section 272 of Act VIII of 1859) empowering the Court to order the proceeds of property attached under a decree obtained fraudulently to be paid in satisfaction of another decree. The power is rarely used, and the case contemplated is, we think, one for a regular suit, not a summary proceeding.

Sale and delivery of Property.

We think (section 288) that the proclamation of execution sales should state the incumbrances (if any) to which the interest about to be sold is liable, and we have provided that no Judge, &c., shall be answerable for error in the proclamation unless it has been committed dishonestly.

We have struck out the clause (section 280 of Bill No. III) allowing process for attachment and sale of moveables to be issued either successively or simultaneously.

We have provided (section 291) for adjournments of execution-sales, and for stopping them on tender of the debt and costs, or on proof that the amount has been paid into the Court which ordered the sale.

We have forbidden (section 292) all officers conducting or otherwise concerned in sales to bid for or purchase the property sold.

In lieu of providing that the attaching creditor shall be first paid out of the assets realized, and that the surplus shall be distributed amongst the other execution-creditors, we have declared (section 295) that such assets shall (after deducting the costs) be divided rateably among all persons who have, prior to the realization, applied for execution of money-decrees against the judgment-debtor and have not obtained satisfaction. We have also provided that when any property liable to be sold in execution is subject to a mortgage, the Court may, with the assent of the mortgagee, order that the property be sold free from the mortgage, giving to the mortgagee, the same right against the proceeds as he had against the property sold.

Courts inferior to District Courts should not, in our opinion (section 303), have power to sell immoveable property in execution of a decree; but when any such inferior Court thinks that such a sale should be made, we have provided (section 304) that such Court shall refer the case to the District Court to which it is subordinate, and declared that the District Court may then sell as if the decree had been made by itself.

We have amended the section (309) empowering the co-sharer in an undivided estate to claim at sale price a share of such estate sold in execution. If the claim be made before sunset on the day of sale and the claimant then repay to the purchaser the amount of his deposit, the claimant will be substituted for the auction-purchaser.

We have fixed (section 312) sixty days as the time within which the purchaser of immoveable property may apply to set aside the sale on the ground that the judgment-debtor had no legally saleable interest therein.

We have by section 316 provided (in accordance with Act XI of 1859, section 28, and Schedule A) that the purchase shall be deemed to take effect from the date of the attachment.

As to sales of land by Collectors, we have substituted for section 276 of Bill No. III a clause (320) providing that the Local Government may, transfer to the Collector of any District the execution of decrees in cases in which a Court has ordered any interest in immoveable property to be sold. And we think (section 321) that whenever the execution of a decree has been so transferred, the Collector, if he thinks that the debts of the judgment-debtor can be discharged without a sale of the whole of the property, should, notwithstanding the order, have power to sell only part, or to mortgage the whole or any part, of the land, or to let or manage it himself for a term not exceeding twenty years from the date of the order. Where the Collector lets or manages we have provided (sections 322, 323) for giving notice to the judgment-creditors to come in; for excluding all other claimants from any right to payment out of the proceeds; for preventing the debtor from incumbering during the term the property so let or managed; and, if at the end of the term the requisite amount has not been raised, for selling such property. Where the Collector sells or exercises the power to mortgage, let or manage, we have required him (section 324) to inform the Court which made the order of sale, to render accounts to such Court and to hold the balance in his hands at its disposal.

Where the sale of immoveable property has been postponed to enable the judgment-debtor to raise the amount of the decree, and the Court authorizes him to sell, mortgage or let the property, we have provided (section 324) that all moneys payable under such sale, mortgage or lease shall be paid into Court and not to the judgment-debtor.

We have omitted (section 325) as unnecessary the power to order security to be taken from the defendant when the Court authorizes the Collector to stay the public sale of land. We have expressly empowered the Local Government (section 326) to make special rules for any territory prohibiting the sale of any class of interests in land in execution of money-decrees.

Arrest and Imprisonment.

We have provided (section 335) that a judgment-debtor may be arrested in execution at any hour and on any day, and that he shall thereupon be brought before the Court, except when the decree is for money and the judgment-debtor pays the amount of the decree and the costs of the arrest. When he is brought before the Court we have directed the Judge to inform him that he may obtain relief under Chapter XX, and if he express his intention so to apply, and if he furnish security for his appearance at any time when called upon, the Court will release him.

When the judgment-debtor fails to pay the amount of principal and interest, we have directed (section 337) the serving-officer to bring him before the Court, and when the serving-officer cannot execute the warrant, we think (section 343) that the Court should examine him on oath as to his inability.

We think (section 339) that no judgment-debtor should be arrested unless and until the decree-holder pays into Court a proper sum for the subsistence of the judgment-debtor from his arrest until he is brought before the Court. We have empowered the Local Government to fix scales of monthly allowances for the subsistence of judgment-debtors in prison.

As to imprisonment in execution of a decree, we have provided (section 341) that a judgment-debtor may be discharged from jail without the order of the Court when the term of his imprisonment is completed; and we think (section 342) that no person should be imprisoned for a longer period than six months, or when the decree is for the payment of a sum not more than Rs. 50, for a longer period than six weeks.

CHAPTER XX.—INSOLVENT JUDGMENT-DEBTORS.

We have here made numerous small amendments, the chief of which are the following:—As to fraudulent transfers, we think (section 351) that the Court need only see that they were not made within two months next before the date of the decree in execution of which the insolvent was arrested or imprisoned. We have provided (section 352) that all creditors, whether mentioned or not in the debtor's application, shall prove their debts. We have provided (section 355) that the receiver of the insolvent's property shall give security, and (section 356) that he may retain as remuneration five per cent. upon the amount of the balance distributed to the creditors. And we have reduced (section 359) from two years to one year the term for which a fraudulent insolvent may be imprisoned.

CHAPTER XXI.—OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

We have added two illustrations to the section (361) as to non-abatement by death where the cause of action survives.

We have provided a limitation (sections 364, 366) for applications under this chapter.

When a suit abates or is dismissed under this chapter, we have permitted (section 371) the person claiming to be the plaintiff's representative to apply to set aside the order of abatement or dismissal.

We have provided (section 372) for cases of assignment pending the suit.

CHAPTER XXII.—OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

We have provided here (section 373) for the case of abandonment of part of the plaintiff's claim, and (section 375) for the finality of decrees passed in accordance with compromises. We have made no other substantial change.

CHAPTER XXIII.—OF PAYMENT INTO COURT.

We have given the Court (section 376) a discretionary power with regard to the payment of deposits in Court to the plaintiff.

Where the Court decides that the defendant's deposit was a full satisfaction of the plaintiff's claim, we have provided (section 379) that the plaintiff shall pay not the costs of the suit, but the costs incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

CHAPTER XXIV.—OF REQUIRING SECURITY FOR COSTS.

We think that the plaintiff should not be required to furnish security for costs unless a defendant so require. We have altered this chapter (section 380) accordingly.

CHAPTER XXVI.—OF COMMISSIONS.

When a Court inferior to a District Court issues a commission to examine a person residing within its jurisdiction, we have provided (section 385) that the selection of the person to execute the commission shall be subject to such rules as the District Court may prescribe.

We have provided (section 386) that any District Court and Court of Small Causes may issue commissions for the examination of officers of Government who cannot attend the Court without detriment to the public service, and of persons who are about to leave the jurisdiction before the date on which the suit in which their evidence is required is set down for hearing.

No Court inferior to a District Court, other than a Court of Small Causes, should, we think, issue commissions for the examination of persons resident beyond its jurisdiction. We have made a provision to this effect in section 386.

We have declared (section 391) that the provisions contained in this chapter as to the execution and return of commissions shall apply to commissions issued by Foreign Courts. We have struck out the section (385 of the Bill No. III) as to taking the evidence of prisoners. The matter is sufficiently provided for by the Prisoners' Testimony Act.

We have extended to proceedings as well as to suits the sections (392, 395) as to commissions for local investigations, and to examine accounts. In the case of the former class of commissions, when the Local Government has made rules as to the persons to be appointed commissioners, we have required the Court to comply with such rules.

CHAPTER XXVI.—SUITS BY PAUPERS.

We have added (section 402) libel to the list of civil injuries in respect of which a pauper should not be allowed to sue as such.

We think (section 407) that a pauper suing on the original side of the High Court should show that he does not possess property worth Rs. 100 except his wearing apparel and the subject-matter of the suit; and as to fraudulent disposals of property by a pauper, we have provided that the Court need only consider whether such disposal was effected within the two months next before the presentation of the pauper's petition.

We have struck out the sections (406, 407 of Bill No. III) authorizing parties to obtain summonses to witnesses and empowering the Court to make local investigations.

We have provided (section 411) that the Court-fees which would have been payable by the plaintiff, if he had not been allowed to sue as a pauper, shall be a first charge on the subject-matter, if any, recovered by him.

We think (section 414) the plaintiff should be dispaupered if he has entered into any agreement under which any other person has obtained an interest in the subject-matter of the suit.

CHAPTER XXVII.—SUITS BY OR AGAINST GOVERNMENT AND PUBLIC OFFICERS.

We think (section 416) that suits against Government and against public officers for acts done in their official capacity should not be instituted in any Court inferior to a District Court (a similar provision is made by the Bombay Civil Courts Act XIV of 1869, section 32); but we have provided that any such suit may be transferred to a subordinate Court.

We think (section 420) that in suits against a public officer, as well as in those against Government, the summons should be served on the Government Pleader, or on some person appointed to receive process in behalf of Government.

We have provided (section 424) that no suit shall be brought against Government or against a public officer as such until two months next after delivery of a notice in writing, stating the cause of action and the name and residence of the intending plaintiff. We have also provided that every suit against a public officer must be commenced within six months next after the accrual of the cause of action. Similar provisions are contained in the Police Act (V of 1861), section 42, and in various Municipal Acts.

CHAPTER XXVIII.—SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

We have laid down rules (section 430) as to when aliens may sue in the Courts of British India. We have declared (section 431) that a Foreign State may sue in our Courts, provided that it has been recognized by the Governor General in Council, and that the object of the suit is to enforce the private rights of the head or of the subjects of the Foreign State. We have also declared in the same section that the Courts shall take judicial notice of the fact that a Foreign State has not been recognized by our Government. We have barred suits (section 433) against Sovereign Princes, ruling Chiefs, ambassadors and envoys, except with the consent of Government, and declared that such consent shall not be given except in certain cases. We have exempted their persson from arrest under the Code, and we have declared that no decree shall be executed against their property unless with the permission in writing of a Secretary to Government. We have provided (section 434) for the execution in British India of the decrees of the Courts of Native States in alliance with Her Majesty.

CHAPTER XXIX.—SUITS BY AND AGAINST CORPORATIONS AND COMPANIES,

and

CHAPTER XXX.—SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

We have made no change in either of the above chapters.

CHAPTER XXXI.—SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

We have provided (section 442) that notice of application to take off the file plaints filed by or on behalf of minors without next friends, shall be given to the person presenting the plaint. We have altered section 445 (= section 439 of Bill No. III) so as to enable married women to act as next friends. We have required (section 443) the Court in every case, on being satisfied of a defendant's minority, to appoint a guardian *ad litem*, and have consequently omitted the sections (453 and 454 of Bill No. III) as to the assignment of a guardian at the instance of the plaintiff. We have taken the opportunity of declaring (section 443), contrary to the recent decision of Pontifex, J., that a guardian *ad litem* is not a guardian of person or property within the meaning of the Indian Majority Act, 1875. We have struck out as unsuited to the Mufassal the rule requiring an order to change a minor's pleader, and the rule against not giving a day to shew cause, when a decree is made against a minor defendant, and as to making payment to the receiver of money, &c., decreed to a minor. We have omitted from section 463, the provision as to the nature of the evidence contained in the corresponding section (462) of Bill No. III. We have exempted (section 464) from several sections of this chapter minors under the jurisdiction of the Court of Wards, and minors for whose persons or property guardians or managers have been appointed by the Civil Courts under any local law.

CHAPTER XXXII.—SUITS BY AND AGAINST MILITARY MEN.

We have here provided (section 463) for the case where the soldier concerned is serving in military staff employment.

CHAPTER XXXIII.—INTERPLEADER.

We have here merely amended the drafting of two of the sections.

CHAPTER XXXIV.—OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

We have expressly stated (section 477) that the suits in which plaintiffs may apply that security be taken for the defendant's appearance, are suits other than suits for the possession of immoveable property. Where the defendant is imprisoned for failing to give security, we think (section 481) that the maximum term of imprisonment should be six months.

We have provided (section 482) that subsistence allowance shall be paid into Court in the case of every arrest under this chapter.

We have provided (section 488) for removing the attachment when the suit is dismissed. Where property is attached under this chapter, and a decree is given in favour of the plaintiff, we have declared (section 490) that it shall not be necessary to re-attach the property in execution of the decree.

We have struck out the section (492 of Bill No. III) empowering the Court to stay the sale of property already under attachment, when execution of a decree fraudulently obtained is applied for. The reasons for omitting section 308 of that Bill are equally applicable to section 492.

CHAPTER XXXV.—OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

We have empowered (section 492) the Court to grant an injunction to stay a wrongful sale in execution of a decree. We have been informed that the corresponding clause of Act VIII of 1859 (section 92, first sentence,) has been held not to apply to such a case.

We have provided (section 493) that the imprisonment by which injunctions granted under this chapter may be enforced shall not exceed six months.

We have added sections (498, 499, 500) empowering the Court to order the interim sale of perishable articles: the detention, preservation, or inspection of any property forming the subject of the suit: and, for the purposes aforesaid, the entry on or into any land or building in the possession of any party to the suit, the taking of samples, making of observations and trial of experiments. They correspond with the English Order 32, rules 2, 3 and 4.

CHAPTER XXXVI.—APPOINTMENT OF RECEIVERS AND MANAGERS.

We have here expressly provided (section 503) that Receivers and Managers shall pass their accounts, pay the balance due thereon, and be responsible for loss occasioned by their wilful default or gross negligence. We think (section 505) that the powers conferred by this chapter should be exercised only by High Courts and District Courts.

CHAPTER XXXVII.—REFERENCE TO ARBITRATION.

Where an umpire is appointed, we have required (section 509) the Court to fix a reasonable time for the delivery of his award.

We have provided (section 514) for superseding the arbitration where, owing to the fault of the parties, the arbitrator cannot complete his award within the specified period.

We have provided (section 522) that decrees following judgments according to awards shall be final.

When the arbitrator is not named in an agreement to refer, and the parties cannot agree as to the nomination, we have empowered (section 523) the Court to nominate him.

CHAPTER XXXVIII.—OF PROCEEDINGS ON AGREEMENT OF PARTIES.

We have here merely added a direction (section 527) that cases stated under this chapter shall be divided into consecutively numbered paragraphs, and concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby.

CHAPTER XXXIX.—OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

This chapter corresponds with 18 & 19 Vic., c. 67 and Act V of 1866, sections 2 to 8. We have here declared (in accordance with decisions of Bramwell B. and Phear J.) that the defendant shall not be required to pay into Court the sum mentioned in the summons, unless the Court thinks his defence not to be *primâ facie* sustainable or feels reasonable doubt as to its good faith. And we have taken the opportunity of declaring (contrary to the decision of the latter Judge) that the clause corresponding with Act V of 1866, section 2, is not confined to cases in which the bill sued upon, together with mere lapse of time, is sufficient to establish a *primâ facie* right to recover.

Act V of 1866 is now in force in the Charter High Courts, the Chief Court of the Panjáb, the Rangoon Recorder's Court, and the Small Cause Court of Madras. We propose (section 538) to extend the corresponding chapter of the Code also to the Small Cause Courts of Calcutta and Bombay and to the Court of the Judge of Karáchi.

We have omitted chapter XLI of Bill No. III (Bar of Appeals not expressly permitted) as unnecessary. No appeal can lie unless it is allowed by the Code or some other law for the time being in force.

CHAPTER XL.—OF APPEALS FROM ORIGINAL DECREES.

We have struck out the clause requiring appeals to the High Court to be heard by two or more Judges. It would limit the discretion expressly conferred by Act of Parliament and Royal Charter.

We have provided (section 540) that the memorandum of appeal shall be presented by the appellant or his pleader, and shall be accompanied by a copy not only of the decree, but also of the judgment on which the decree is founded.

We have struck out, as likely to work unsatisfactorily, the provisions contained in sections 548—553 of Bill No. III, which authorize the appellant merely to state generally his dissatisfaction with the decree appealed against, and to file his grounds of objection separately.

Where a memorandum of appeal is amended, we have required (section 543) the Judge to attest the amendment.

We have empowered (section 550) the appellate Court, after hearing the appellant, if he appears, to confirm the decision appealed against without sending notice of the appeal to the lower Court or serving such notice on the respondent. A similar rule exists in the Panjáb (Act IX of 1873, section 7), and has been found to work well.

We have laid down rules (section 555) as to the right to begin (*a*) where the appeal is from the whole decree, (*b*) where there are cross-appeals, and (*c*) where the appeal is from only a portion of the decree and there is no cross-appeal.

We have provided (section 560) a period of limitation for applications to re-hear, where judgment has been given *ex-parte* against the respondent.

Where a case is remanded with direction to take specified evidence, we have authorized (section 563) the Court to receive evidence tendered to contradict evidence so taken.

We have redrawn the section (575 = section 589 of Bill No. III) as to decisions of appeals heard by Benches of two or more Judges who differ. When there is no majority on the Appellate Bench which concurs in reversing or varying the decree appealed against, we think that decree should stand.

We have omitted as useless the provision as to sealing the decree in appeal.

CHAPTER XLI.—OF APPEALS FROM APPELLATE DECREES.

We have struck out the clause requiring the pleader presenting an appeal to certify that the grounds are reasonable, and forbidding him to give such certificate unless he has been authorized by the High Court. We have also omitted the clause declaring that an application for a second appeal shall be argued only by the pleader signing such certificate.

CHAPTER XLII.—OF APPEALS FROM ORDERS.

We have declared (section 588) that an appeal shall lie from orders determining whether immoveable property is or is not within the local limits, from orders striking out or adding the names of persons as plaintiffs or defendants, from orders under section 44 adding a cause of action, from orders under section 47 excluding a cause of action, from orders under section 234 as to questions relating to the execution of decrees, from orders under section 176 where a party refuses to give evidence called for by the Court, from orders rejecting applications under section 371, from orders disallowing objections under section 373, and from orders under section 518 modifying an award.

Appeals from orders in insolvency will in all cases lie (section 589) directly to the High Court.

CHAPTER XLIII.—OF PAUPER APPEALS.

Except some trifling omissions, we have made no change in this chapter.

CHAPTER XLIV.—OF APPEALS TO THE QUEEN IN COUNCIL.

We have here provided (section 610) for estimating in Indian currency sums expressed in orders of Her Majesty in Council to be payable in British currency, and we have authorized (section 613) the High Courts to make rules as to the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council.

CHAPTER XLV.—OF REFERENCE TO THE HIGH COURT.

We have extended (section 617) this chapter to questions arising before or in the hearing of a suit and in the execution of a decree. We have struck out the clause providing that references shall be heard by not less than two Judges of the High Court. We have provided (section 621) that when a case is referred, the High Court may alter, cancel or set aside any decree which the Court making the reference may have passed in the suit. We have omitted as useless the section requiring the High Court to fix an early day for hearing references. Our other changes here are merely verbal.

CHAPTER XLVI.—OF REVIEW OF JUDGMENT.

We think (section 622) that powers similar to those given by this chapter to High Courts may usefully be given to District Courts as to cases decided by subordinate Courts, including Courts of Small Causes.

We have struck out the clause empowering an appellant to abandon his appeal and apply for a review. We have extended the clause (624) forbidding (except in certain cases) applications for review of judgments to be made to Judges other than those who delivered them, to cases in which a clerical error has been discovered on the face of the decree. Where the business of the Court whose judgment is sought to be reviewed has been transferred to another Court, we have authorized (section 626) the application to be made to the latter Court. But we think (section 624) that except on the discovery of some new and important matter or evidence or of some clerical error apparent on the face of the decree, no application for the review of a judgment should be made to any Judge other than the Judge who delivered it. Where a review is granted, we have required (section 626) the Judge to record with his own hand his reasons for so doing.

We have omitted the clauses forbidding subordinate Courts to grant reviews without permission of the higher Court.

We think (section 629) that the order granting a review or rejecting an application for a review should be final except where the review has been granted without jurisdiction. Where the application has been rejected in consequence of the failure of the parties to appear, we have provided for restoring in proper cases the application to the file. We have also expressly forbidden the Courts to entertain applications to review orders passed on review or on applications for review.

CHAPTER XLVII.—SPECIAL RULES RELATING TO THE HIGH COURTS.

We have here omitted the following sections of Bill No. III for the reasons respectively appended thereto—

665 (as to the extraordinary original jurisdiction of the High Court): provided for by the Charters,

666 (power to High Court to provide for the exercise of its jurisdiction): ditto,

668 (decision when Judges differ): provided for in the prior part of the Bill,

670 (declaring that acts required to be done by a pleader may be done by an attorney): ditto,

672, 673 (power to refer matters for investigation in chambers): provided for by the Charters,

37, 674 (signature of the Registrar): provided for by the former part of the Bill,

675 (language): unnecessary,

676 (assessors): ditto,

677 (interlocutory orders): ditto,

678 (appearance of vakíls on the original side): can be provided for under the Charters,

681 (obtaining summonses from Registrar): unnecessary,

684 (procedure in testamentary and intestate cases): provided for by rule.

We have empowered the High Court to declare by rule what shall be deemed to be "acts not of a judicial nature," which may be done by the Registrar.

We have declared (section 640) that the following portions of the Code shall not apply to the High Court in the exercise of its ordinary and extraordinary original civil jurisdictions, *viz.*:—

37, recognised agents;

54, clause (*a*), rejection of plaint where relief sought is under-valued;

160, payment into Court of expenses of witnesses;

206, contents of decree;

263, decree for execution of conveyances or endorsement of negotiable instruments.

We have expressly empowered (section 641) the High Court to prescribe forms for its own use.

CHAPTER XLVIII.—MISCELLANEOUS.

We have struck out as now unnecessary the clause (section 686 of Bill No. III) declaring that where the highest Civil Court of appeal consists of a single Judge, he shall have the powers which were (but are not now) vested by this Code in two or more Judges.

We have amended (section 643) the rules as to the names of persons exempt from appearance in Court. We have omitted the following sections of Bill No. III—

687, 688, as to assessors (obsolete and useless),

697, as to verifying false plaints (provided for by the Penal Code),

705, as to ministerial officers (can be provided for executively),

708, as to deposits in lieu of bail (useless).

We have also struck out the clause empowering the Government of India to invest a Chief Commissioner with the powers of a Local Government under the Code. This matter is sufficiently provided for by Act XXXII of 1867.

We have redrawn the section (644) relating to exemption from arrest. It now provides that no judicial officer shall be liable to arrest under the Code while going to, presiding in, or returning from, his Court, and that the parties to a suit and their pleaders, recognized agents and witnesses shall be similarly exempt while going to or attending a Civil Court for the purpose of such suit, and while returning from such Court.

We have struck out the section (698 of Bill No. III) as to certain offences in Court not relating to documents. The matter seems sufficiently provided for by the Code of Criminal Procedure.

We have introduced a section (648 = Act XI of 1865, section 42) enabling registrars of Mufassal Courts of Small Causes to state cases for the opinion of the Judge.

We have provided (section 650) for attaching property situate outside the local limits of the jurisdiction of the Court making the order of attachment.

We have provided (section 653) a punishment for escape from civil custody.

We have empowered (section 654) the High Court to make rules to regulate any matter connected with the procedure of the Courts of Civil Judicature.

SCHEDULE I.—REPEALS.

We have added to this schedule the Lords Day Act (29 Car. II, c. 7): sections 8, 9, 10, 11, the second clause of section 19, sections 22 to 28 (inclusive), 42, and part of 32 of the Mufassal Small Cause Courts Act XI of 1865, parts of Acts XIV and XIX of 1865, and the unrepealed part of Act XXIV of 1866, the whole of Act X of 1867, and so much of sections 15 and 16 of Act XV of 1869 as relates to process issued by a Civil Court. We have also added Act IX of 1873, sections 7, 9 and 10, and Madras Regulation XIV of 1816, section 27.

SCHEDULE II.—SECTIONS EXTENDING TO MUFASSAL COURTS OF SMALL CAUSES.

We have made a few changes in this schedule, the most important of which is the addition of the chapters on interpleader and on reference to the High Court.

SCHEDULE IV.—FORMS.

We have added a few forms—concise statements of claim: statements of defence: temporary injunctions; and we have amended some of the forms of decrees.

We have also made numerous small changes in the wording and arrangement of the Bill, and we think that it has been so altered that it should be republished with this report in the *Gazette of India* and the local Gazettes, and that its further consideration should be stayed till the Council re-assembles in Calcutta.

We desire, in conclusion, to express our acknowledgments of the learning, acuteness and industry evinced by many of the communications respecting the Bill. We would in particular mention those by Mr. Pitt Kennedy the Standing Counsel, Mr. Belchambers the Registrar of the High Court at Fort William, Mr. Plowden the Government Advocate, Panjáb, Mr. Nelson of the Madras Civil Service, Messrs. Field, Maclean, Crosthwaite, and J. W. Smyth, all of the Bengal Civil Service, and Hukm Chand, Extra Assistant Commissioner, Montgomery.

A. HOBHOUSE.
E. C. BAYLEY.
J. INGLIS.
F. R. COCKERELL.
T. C. HOPE.

SIMLA;
The 13th September 1876.

No. IV.

THE CODE OF CIVIL PROCEDURE.

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THE FIRST SCHEDULE.—*A.*—Statute repealed.
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A Bill to consolidate and amend the Laws relating to the Procedure of the Courts of Civil Judicature.

Preamble. 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:—

PRELIMINARY.

Short title. Commencement. **1.** This Act may be cited as "The Code of Civil Procedure:" and it shall come into force on the day of 1876.

Local extent. 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.

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." "District Court." "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.

"jail." "jail" means the civil jail of the district, or any place appointed by the Local Government for the confinement of persons under civil process:

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

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

"the cause of action." "a part of the cause of action." "the cause of action" means the whole of the circumstances which a plaintiff must allege in order to shew a right to sue, and "a part of the cause of action" means some one of those circumstances:

"judgment." "judgment" means the statement given by the Judge as the grounds of the order or decision by which a suit or appeal is determined:

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

"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." "decree-holder" means any person in whose favour a decree has been made, and includes any person to whom such decree is transferred:

"affidavit." "affidavit" means a declaration in writing sanctioned by the oath of the declarant administered by a Court or person duly authorized for that purpose:

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

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

"public officer" defined. "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.

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

Enactments repealed. **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.

References in previous Acts. 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;

Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma. **4.** Save as provided in 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.

Sections extending to Mufassal Small Cause Courts. **5.** The chapters and sections 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 do not extend to such Courts. But nothing herein contained shall be deemed to enlarge the powers which such Courts now possess for the purposes of effecting attachments or executing decrees.

Saving of jurisdiction and procedure— **6.** Nothing in this Code affects the jurisdiction or procedure—

(a) of Military Courts of Request; (*a*) of Military Courts of Request;

(b) of officers appointed to try small suits in Bombay; (*b*) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázárs at Cantonments and Stations occupied by the troops of that Presidency; or

(c) of Village Munsifs and Village Panchávats in Madras. (*c*) of Village Munsifs or Village Panchávats under the provisions of the Madras Code.

Saving of certain Bombay laws. **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.

Code not to apply to Presidency Small Cause Courts, till specially extended. **8.** Save as provided in sections 25, 86, 225 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, 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: References to the High Court.
The eighth Part: Review of Judgment.
The ninth Part: Special Rules relating to the High Court.
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.

Courts to try all civil suits unless specially barred. **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.

Pending suits. **12.** Except where a suit has been stayed under section 19, the Court shall not try any suit in which the matter in issue is also substantially in issue in a previously instituted suit 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, or in any Court beyond the limits of British India established by the Governor General in Council, or before Her Majesty in Council.

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 take cognizance of any suit, nor shall it try any issue, in which the matter 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 in a former suit brought by the defendant against the plaintiff, shall be deemed to have been a matter substantially in issue in such suit.

Explanation III.—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.

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.

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.

CHAPTER II.

OF THE PLACE OF SUING.

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

Court in which suit to be instituted.

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

Suits to be instituted where subject-matter situate.

(*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 distrained or attached,

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

Provided that suits to obtain relief respecting 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 or voluntarily resides, or carries on business, or personally works for gain.

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

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

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

(*a*) 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

(*b*) 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; or

(*c*) the cause of action arises; or

(*d*) a part of the cause of action arises.

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 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 Dehli. 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 Dehli, where B carries on business.

(*b.*) A, resides at Simla, B at Calcutta, and C at Dehli. 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.

(*c.*) A draws in Simla, a bill on B, who accepts the bill in Calcutta, and returns it by post to A. The bill does not mention any place of payment. It is presented to B in Calcutta, and he fails to pay. One part of the cause of action has arisen at Simla and others at Calcutta. The suit may therefore be brought either in Simla or in Calcutta.

(*d.*) A signs a contract in Calcutta for the delivery of rice to B at Dehli, and delivers it accordingly. B does not pay the price, and A sues him for it. One part of the cause of action has arisen in Calcutta and another in Dehli. The suit may therefore be brought either in Calcutta or in Dehli.

(*e.*) A. lets a house in Howrah to B, at a monthly rent payable in Howrah. A dies intestate. C obtains in Calcutta, a grant of letters of administration to A's estate. B allows the rent to fall into arrear. One part of the cause of action has arisen in Calcutta and another in Howrah, and C may therefore sue B for the arrears either in Calcutta or in Howrah.

17. 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.

Forum in suits for compensation for wrongs.

Illustrations.

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

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

(*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.

18. If the suit be for 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.

Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

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.

19. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction only part of the cause of action arose, and where 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;

Power to stay proceedings where the whole cause of action did not arise and all defendants do not reside within jurisdiction.

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.

Application when to be made.

20. Where the Court, under section 19, stays proceedings, and the plaintiff re-institutes 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.

Remission of Court-fee where suit instituted in another Court.

The interval between the institution of the suit and the date of so staying proceedings and the time requisite for proceeding from the Court in which proceedings are stayed to the Court in which the suit is re-instituted shall be excluded in computing the period of limitation prescribed for such suit.

Computation of period of limitation for such suits.

21. 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.

Procedure where Courts in which suit may be instituted are subordinate to the same appellate Court.

22. 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.

Procedure where they are not so subordinate.

23. 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.

Procedure where they are subordinate to different High Courts.

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.

24. If, in a suit for immoveable property, the defendant object to the hearing of the suit on the ground that no part of the property is situate within the local limits of the jurisdiction of the Court in which the suit is instituted, or to which it has been transferred, the Court may by order determine the point;

Suit for immoveable property alleged to be within another local jurisdiction.

and if the Court find that the property or any part thereof is situate within such limits, it shall proceed to try the suit.

25. The High Court or the District Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, with-

Transfer of suits.

draw any suit instituted in any Court 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.

Persons who may be joined as plaintiffs.

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.

Court may substitute or add plaintiff for or to plaintiff suing.

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 may seem just.

Persons who may be joined as defendants.

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 cause of action. 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.

Joinder of parties liable on same contract.

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, hundís and promissory notes.

One party may sue or defend on behalf of all in same interest.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may sue or be sued, or may be authorized by the Court to defend in such suit, on behalf or for the benefit of all parties so interested.

Suit not to fail by reason of misjoinder.

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.

Court may dismiss or add parties.

32. The Court may, at any time before the issues are settled, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party whether as plaintiff or as defendant, improperly joined, be struck out; and that the name of any party whether plaintiff or defendant, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and 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.

Defendants added to be served.

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such summons.

Where defendant added, plaintiff to amend.

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.

Time for taking objections as to non-joinder or misjoinder of parties.

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 issues are settled; and any such objection not taken before the issues are settled shall be deemed to have been waived by the defendant.

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.

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 Pleaders.

Appearances, &c., may be in person, by recognized agent or by pleader.

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 in such Court, may, except when otherwise expressly provided by this Code, 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 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 certificated under any law for the time being in force, and holding special powers of attorney authorising 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.

Service of process on recognized agent.

38. Processes served on the recognized agent of a party to a suit 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 under the hand of his client and shall be filed in Court.

When so filed, it shall be considered to be in force until revoked with the permission of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or the decree or final order is drawn up.

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

Service of process on pleader.

40. Processes served on the pleader of any party or left at the office or ordinary residence of such pleader, relative to a suit, 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 as if the same had been given to or served on the party in person.

Agent to receive process.

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

His appointment to be in writing and to be filed in Court.

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.

Suit how to be framed.

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 to include the whole claim.

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.

Relinquishment of part of claim.

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

Only certain claims to be joined with suit for recovery of land.

44. *rule a.*—No cause of action shall, unless by order of the Court, be joined with a suit for the recovery of land, except claims in respect of mesne profits or arrears of rent in respect of the premises claimed, and damages for breach of any contract under which the same or any part thereof are or is held.

Claims by or against husband and wife.

rule b.—Claims by or against husband and wife may be joined with claims by or against either of them separately.

Claims by or against executor.

rule c.—Claims by or against an executor or administrator as such, may be joined with claims by or against him personally, provided 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 or administrator.

rule d.—Rules *b* and *c* shall be subject to the provisions of sections 45, 46 and 47.

Plaintiff may join several causes of action.

45. 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.

Court may order separation.

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 issues are settled, of its own motion or on the application of the defendant, order separate trials of any such causes of action.

to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are so united, the jurisdiction of the Court to hear the suit shall depend on the amount or value of the aggregate subject-matters.

Defendant may apply to confine suit.

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 issues are settled 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 proceeding.

Court on hearing application may exclude some causes an order amendment.

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 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.

Language of plaint.

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 and the consent of the defendant) be written in English.

Particulars to be contained in plaint.

50. The plaint must contain the following particulars:—

(*a*) the name of the Court in which the suit is brought;

(*b*) the name, description and place of abode of the plaintiff;

(*c*) the name, description and place of abode of the defendant, so far as they can be ascertained;

(*d*) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(*e*) a demand of the relief which the plaintiff claims; and

(*f*) 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.

Illustration.

A sues for mesne profits:

A sues for the amount which will be found due to him on taking unsettled accounts between him and B.

In each of these cases the plaint need only state approximately the amount sued for.

Where plaintiff sues as a representative.

When the plaintiff sues in a representative character, the plaint should shew, 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.

Illustrations.

(*a*.) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*.) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(*c*.) 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.

Defendant's interest and liability to be shewn.

The plaint must shew 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.

Illustration.

A dies leaving B his executor, C his legatee, and D debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaint must shew 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.

Grounds of exemption from limitation-law.

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

Plaint to be subscribed and verified.

51. The plaint 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 person acquainted with the facts of the case.

Contents of verification.

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.

When the plaint is verified by any person other than the plaintiff, such person shall set forth his knowledge or the grounds of his belief on the subject, and the reason why the verification was not made by the plaintiff.

Verification to be signed and attested.

The verification shall be signed by the person making it in the presence of a witness, who shall also sign it.

The Court may in any case examine such witness as to the fact of the signature, and shall so examine him when the person making the verification does not appear.

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

53. The plaint may, at the discretion of the Court, and at any time before the issues are settled, 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,

(*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.

Proviso.

Provided that a plaint 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 plaint is amended, the amendment shall be attested by the signature of the Judge.

When the plaint shall be rejected.

54. The plaint 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 plaint 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, in the case mentioned in section 381, the plaintiff fail to furnish security for the payment of the costs that may be incurred by the defendant:

(*d*.) If the suit appear from the statement in the plaint to be barred by any positive rule of law.

Procedure on rejecting a plaint.

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

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

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

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

57. The plaint 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 15, it appear that no part of such property is situate within the local limits of the Court's jurisdiction:

(*c*.) If, in any other case, it appear that the cause of action, or a material part thereof, did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

Procedure on returning plaint.

On returning a 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.

Procedure on admitting plaint.

58. If the Court consider the plaint admissible, it shall cause the plaintiff to endorse thereon, or to annex thereto, a memorandum of the documents (if any) which he has filed along with it; and the plaintiff 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 file a like number of concise statements.

Concise statements.

of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall file such statements.

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

The plaintiff may, by leave of the Court, amend any such statement so as to make it correspond with the plaint.

The chief ministerial officer of the Court shall sign such endorsement 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 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.

Production of document on which plaintiff sues.

59. If a plaintiff sue upon a document in his possession or power, he shall 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.

List of other documents.

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

Procedure in case of documents not in his possession or power.

60. In the case of any document not in his possession or power he shall, if possible, state in whose possession or power it is, and, when it is in the possession or power of a person not a party to the suit, shall take out a summons against such person, requiring him to file the document in court within such time after the service of the summons as the Court in each case directs, and stating the time so directed.

Suits on lost negotiable instruments.

61. In case of any suit founded upon a bill of exchange or other negotiable 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 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.

Production of shop-book.

62. If the document on which the plaintiff sues be an entry in a shop-book or 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.

Original entry to be marked and returned.

The Court, or such officer as it appoints in this behalf, shall forthwith mark 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.

Inadmissibility of document not produced when plaint filed.

63. A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered at the foot of 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.

Summons.

64. When the plaint has been registered, and the copies or statements required by section 58 have been filed, a summons may be issued to the 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.

Indorsement of claim.

65. Every such summons shall be accompanied with one of the copies or 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 limits 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 between the place where he resides and the place where the Court is situate, two hundred, miles from the court-house.

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

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:

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

Fixing day for appearance of defendant.

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.

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

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

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.

On issue of summons or 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 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.

Mode of service.

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.

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, 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.

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

75. Whenever it may be practicable, the service shall be 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 on agent by whom defendant carries on business.

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.

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

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

77. In a suit for immoveable property, if the summons cannot be served on the defendant in person, and the defendant have no agent empowered to accept the service of the summons, it may be served on any agent of the defendant in charge of the property.

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

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.

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

Person served to sign acknowledgment.

79. When the serving-officer delivers or tenders the copy of the summons to the defendant personally, or to an agent or other person on his behalf, the serving-officer 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 or on a copy thereof signed and sealed as aforesaid.

Endorsement of time and manner of service.

80. 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, or on a copy thereof signed and sealed as aforesaid, the time when and the manner in which the summons was served.

Procedure when defendant refuses to accept service,

81. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons,

or cannot be found.

or if the serving officer cannot find the defendant, and there is no agent 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 return the summons to the Court from which it issued, with an endorsement thereon that he has been unable to serve it.

Substituted service.

82. When a summons is returned without having been served, the Court shall examine the serving-officer on oath touching the non-service; and if 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.

Effect of substituted service.

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

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

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.

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

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 most conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

The Court to which the summons is sent shall, upon receipt thereof, deliver it to the proper officer of such Court, to be served, endorsed and returned in the manner hereinbefore directed.

Upon the return of the summons by the serving-officer, if it has not been served, the Court to which it has been sent shall examine him on oath touching the non-service and record the result; and the summons shall be sent back to the Court from which it originally issued, together with the record (if any) made under this paragraph.

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

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,

and such Court of Small Causes shall cause it to be served in the same manner as if it had issued from such Court,

and, after having been so served, the process shall be returned to the Court from which it issued.

Service on defendant in jail.

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.

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.

Procedure if jail be in a different district.

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.

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

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 situate.

Service through British Resident or Agent of Government.

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.

Substitution of letter for summons.

91. Nothing herein contained shall prevent the Court from substituting 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.

Mode of sending such letter.

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

Service of Process.

Proof of due service and delivery of process sent by post.

93. Wherever this Code provides that any notice, summons, letter or other communication may be sent to the person to whom it is addressed by post, proof that the same was correctly addressed to such person at his place of residence, and that it was posted and registered according to the law for the time being regulating the management of the Post Office shall, in the absence of evidence to the contrary, be sufficient proof of the due service and delivery of the notice summons, letter or other communication.

Process to be served at expense of party issuing it.

94. Every process required to be issued under this Code shall be served at the expense of the party at whose instance it is issued, unless the Court otherwise directs.

Costs of service.

The sum required to defray the costs of such service shall be paid into Court before the process is issued, within a period to be fixed by the Court issuing the process.

Postage.

Postage, where chargeable on any notice, summons, letter or other communication forwarded by post and the fee for registering the same, shall be costs required to be paid as aforesaid within the meaning of this section.

Fixing of costs of service.

In fixing the costs to be paid for service of process, regard shall be had to any law or to any rules issued by the High Court for fixing the amount of such costs.

Notices and orders in writing how served.

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

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

Parties to appear on day fixed in summons for defendant to appear and answer.

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.

Dismissal of suit where summons not served in consequence of plaintiff's failure to deposit costs of issuing it.

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 deposit, within the period fixed by the Court, the sum required to defray the cost of issuing or serving such summons, the Court may order that the suit be dismissed:

Proviso.

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.

If neither party appear, suit to be dismissed.

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

In such case plaintiff may bring fresh suit;

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 making the deposit required within the time allowed 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.

or Court may restore the suit to its file.

Procedure if only plaintiff appear.

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

When summons was duly served.

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

When summons not duly served.

(*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:

When summons served, but not in due time.

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

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.

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 may direct as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

Procedure where defendant only appears.

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.

Decree against plaintiff by default bars fresh suit.

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.

Procedure where defendant residing out of British India does not appear.

103. 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.

Procedure in case of non-attendance of one or more of several plaintiffs.

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

Procedure in case of non-attendance of one or more of several defendants.

105. If there be more defendants than one, and one or more of them appear, and the others of them 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.

Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.

106. 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.

Court to receive written declaration in support of cause shown for failure to appear.

107. In support of the cause shown by a plaintiff or defendant for failing to appear in person, the Court shall receive any declaration in writing signed by such plaintiff or defendant and verified in manner hereinbefore provided for the verification of plaints.

Of setting aside Decrees ex parte.

Setting aside decree *ex parte* against defendant.

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 summons was not duly served, or 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.

No decree to be set aside, without notice to opposite party.

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.

Written statements.

110. The parties may, at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements, place them on the record, and deal with them as if given in evidence.

Particulars of set-off to be given in written statement.

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 Court shall thereupon enquire 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.

Enquiry.

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.

Effect of set-off.

When the defendant, for the purpose of availing himself of the provisions contained in this section, intentionally relinquishes any portion of his claim against the plaintiff, nothing in section 43 shall apply to the portion so relinquished.

Relinquishment of portion of claim for purpose of set-off.

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, in which B seeks the set-off.

(*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.

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

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

Provided 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:

Court may at any time call for written statement.

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 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.

Procedure when party fails to present written statement called for by Court.

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 believes he will be able to prove.

Frame of written statements.

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.

Written statements to be 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.

Rejection of argumentative, prolix or irrelevant written statements.

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.

117. Every allegation of fact in any written statement, if not denied specifically or by necessary implication, or stated to be not admitted by the opposite party, shall be taken to be admitted for the purposes of the suit.

Allegation of fact not denied admitted for purpose of suit.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

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 he 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.

Oral examination of party, or companion of himself or his pleader.

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

Substance of examination to be written.

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

Consequence of refusal or inability of pleader to answer.

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.

Discovery.

121. At any time before the settlement of issues, either party may without any order for that purpose, and 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:

Power to deliver interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court.

122. Interrogatories delivered under section 121 shall be served in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80 and 81 shall, *mutatis mutandis*, apply to the serving officer.

Service of interrogatories.

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.

Inquiry into propriety of exhibiting interrogatories.

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 its 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.

Service of interrogatories on officer of corporation or company.

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.

Power to strike out interrogatories as irrelevant, &c.

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

Time for filing affidavit in answer.

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 *viva 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.

Procedure where a party omits to answer sufficiently.

Admission of Documents.

128. Either party may, by a demand made in writing, within a reasonable time, not being less than four 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.

Power to demand admission of genuineness of documents.

The demand shall be served through the Court in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80 and 81 shall, *mutatis mutandis*, apply to the serving officer.

The admission shall also be made in writing and filed in Court by the other party.

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

If such demand 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.

Production of Documents.

129. 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.

Power to order production of documents during suit.

130. Any party may apply to the Court for an order directing any other 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 or proceeding.

Application for order for discovery of document.

Every such affidavit shall specify which, if any, of the documents therein mentioned the declarant objects to produce.

Affidavit in answer to such order.

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 plaint, written statement or affidavits

Notice to produce for inspection documents referred to in plaint, &c.

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.

Consequence of non-compliance with such notice.

132. The party to whom such notice is given shall, within four 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.

Party receiving such notice to deliver notice when and where inspection may be had.

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.

Application for order of inspection.

134. Except in the case of documents referred to in the plaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application 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.

Application to be founded on affidavit.

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.

Power to order issue or question on which right to discovery depends to be first determined.

136. If any party fail to comply with any order under this chapter to answer interrogatories or for discovery or inspection, which has been served personally upon him, 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 defended;

Consequences of failure to answer or give inspection.

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 of documents, 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.

Court may send for papers from its own records or from other Courts.

Every application made under this section must, if the Court so require, be supported by an affidavit of the applicant or his pleader, showing how the record is material to the suit in which the application is made and that the applicant cannot obtain a duly authenticated copy of the record or such portion thereof as the applicant requires.

Production of Documents at first Hearing.

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 or other things specified in any order made under section 130 at any time before the hearing of the suit.

Documentary evidence to be produced at first hearing.

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.

Effect of non-production of documents.

140. The Court shall receive the documents produced by the parties at the first hearing.

Documents to be received by Court.

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.

Rejection of irrelevant or inadmissible documents.

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, and shall be filed as part of the record:

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

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 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.

Entries in shop-books.

142. When a document is rejected by the Court, it shall be endorsed in the manner specified in the last preceding section with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

Rejected documents to be marked,

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

and returned; unless detained by Court.

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.

Court may order any document to be impounded.

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:

After lapse of time for appeal, document admitted in evidence may be returned.

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:

When document may be returned before time limited.

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

Document not to be returned in certain cases.

145. 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.

Receipt to be given for returned document.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

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

Framing of issues.

They are of two kinds: (1) issues of fact, (2) 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 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.

Nothing in this section shall be deemed to require 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 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;

(*c*) the contents of documents produced by either party and placed on the record.

Court may examine witnesses or documents before framing issues.

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 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.

Power to amend, add and strike out 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.

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.

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

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,

(*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.

No such agreement shall be filed after the Court has recorded issues in the suit, unless the Judge, for some reason to be recorded under his hand, otherwise directs.

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

151. If the Court be satisfied, after making such enquiry 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 deliver 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, give 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 give judgment.

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

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 give judgment for or against such defendant, and the suit shall proceed only against the other defendants.

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

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 issue,

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 give 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.

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

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 give judgment,

or if it is unable to give judgment by reason of additional evidence being required, or for any other cause, the Court shall frame and record, under section 146, the issues requiring to be determined.

Procedure where Court cannot give judgment at first hearing.

CHAPTER XIII.

OF ADJOURNMENTS.

Court may grant time, or adjourn hearing.

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.

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 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 absolutely necessary for reasons to be recorded by the hand of the Judge.

Procedure if parties fail to appear on day fixed.

157. If, on any day to which the hearing of the suit is adjourned, the parties or either 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.

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

158. If either 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.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

Summons to attend to give evidence or produce documents.

159. The parties may, after the summons has been delivered for service on the defendant, if the summons be for the final disposal of the suit;

or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only,

obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such disposal or settlement, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce a document.

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

160. The person applying for a summons shall 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.

Scale of expenses.

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.

Tender of expenses to witness.

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.

Procedure where insufficient sum paid in.

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

Expenses if witness detained more than one day.

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.

Time, place, and purpose of attendance to be specified in summons.

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.

Summons to produce document.

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.

Power to require persons present in Court to give evidence.

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.

Service of Summons on Persons required to give Evidence or produce Documents.

Summons how served.

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.

Time for serving summons.

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.

Attachment of property of absconding witness.

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 cause 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 some conspicuous place of the house in which he is dwelling.

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.

If witness appears, attachment may be withdrawn.

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.

Procedure if witness fails to appear.

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.

Attendance of Witnesses and Consequence of Non-attendance.

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.

Court may of its own accord summon as witnesses strangers to suit.

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.

Persons summoned to give evidence must attend.

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.

When they may 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.

Consequences of non-attendance.

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 reasonable sum for expenses 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 for his appearance at such time and place as it thinks fit, and on such bail being given, may release him.

Consequences of refusal to give evidence or produce documents.

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.

Procedure when witness absconds.

176. If any party present in Court refuses, without lawful excuse, when required by the Court, to give evidence, or to produce such 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.

Consequence of refusal of party to give evidence when called on by the Court.

Nothing in this section enables the Court to decree a claim which on the face of the record is not warranted by law.

Explanation.—"Lawful excuse" means in this section such an excuse as, under the Indian Evidence Act, 1872, justifies a refusal to give the evidence or produce the document required.

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

Person summoned to attend in person if so required.

(*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 between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

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.

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

Proceedings on the Hearing.

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.

Statement and production of evidence by party having right to begin.

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

Rules as to right to begin.

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

Statement and production of evidence by other party.

The party beginning is then entitled to reply.

Reply by party beginning.

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 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 fresh evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on such fresh evidence; 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 hearing, and under the personal direction and superintendence, of the Judge.

Witnesses to be examined in open court.

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 shall, if necessary, be corrected, and shall be signed, by the Judge.

How evidence shall be taken in appealable cases.

183. 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.

Memorandum when evidence is not taken down by Judge.

184. Notwithstanding anything contained in section 182, the Local Government may by notification in the official Gazette permit the evidence of witnesses in any Court or class of Courts to be taken down by the Judge with his own hand in English, and may withdraw such permission,

Local Government may direct evidence to be taken down by Judge with his own hand.

and any Judge may take down the evidence with his own hand in English, if the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object.

185. If the evidence is taken down 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.

When witness may require his deposition to be interpreted.

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.

Any particular question and answer may be taken down.

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 upon the objection.

Questions objected to.

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

Remarks on demeanour of witnesses.

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.

Memorandum of evidence in unappealable cases.

190. If the Judge be rendered unable to take down evidence, or 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 evidence to be taken down, or the memorandum to be made in writing from his dictation in open Court.

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

Every memorandum so made shall form part of the record.

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 deal with evidence taken down by Judge removed before conclusion of suit.

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.

Power to examine witness immediately.

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.

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.

Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. The Court may at any time 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:

Power to order any point to be proved by affidavit.

Provided that where it appears to the Court that the other 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 may on the application of either party order the attendance for cross-examination of the declarant.

When evidence may be given by affidavit.

196. Affidavits shall be confined to such facts as the declarant is able of his 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.

Matters to which affidavits shall be confined.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

197. In the case of any affidavit under this Code—

Oath of declarant by whom to be administered.

(*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 inspecting the documentary evidence on the record, and examining or hearing the witnesses examined by the parties or their pleaders, and hearing the parties in person or by their respective pleaders or recognized 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.

Judgment when pronounced.

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.

Power to pronounce judgment written by Judge's predecessor.

200. The judgment shall be written in the language of the Court:

Judgment to be written in language of Court.

Provided that, if such language is not English or the Judge's mother-tongue, the judgment may be written in English or his mother-tongue.

Proviso.

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.

Translation of judgment.

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 on review.

Judgment to be dated and signed.

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

Judgments of Small Cause Courts.

The judgments 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.

Judgments of other Courts.

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.

Court to state its decision on each issue.

Exception.

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, of its own motion or on that of any of the parties, amend the 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.

Power to amend decree.

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.

Decree for recovery of portion of immoveable property.

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.

Decree for delivery of moveable property.

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 thinks proper 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 not exceeding six per centum per annum on the aggregate sum so adjudged, and on the costs of the suit, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

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.

Payment by instalments.

And on the application of the defendant at any time not more than six months after decree, the Court may order that the amount of the decree 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: provided that, before granting such application, reasonable notice in writing has been given to the plaintiff or his pleader, and that the Court has heard the objections, if any, made by the plaintiff or on his behalf.

Court may order payment by instalments.

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 favour the decree is made, or until the expiration of one year from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

In suits for land, Court may decree payment of mesne profits with interest.

Explanation.—'mesne profits' of property mean those profits which the person 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 enquiry into the amount of mesne profits, and dispose of the same on further orders.

Court may determine amount of mesne profits prior to passing decree, or may reserve enquiry.

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 enquiries to be taken and made, and give such other directions as it thinks fit.

Administration-suit.

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.

Explanation.—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 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.

Suit for dissolution of partnership.

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

If set-off be allowed.

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.

Effect of decree.

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

Certified copies of decree and judgment to be furnished.

CHAPTER XVIII.

OF COSTS.

217. 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.

Costs of applications.

218. 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,

Judgment to direct by whom costs are to be paid.

219. 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:

Power of Court as to costs.

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.

220. 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.

Costs may be set-off against sum admitted or found to be due.

221. 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.

Interest on costs.

Costs may be paid out of or charged on subject-matter of suit.

222. There shall be no appeal on a question solely relating to costs except on either of the following grounds (namely)

Questions of costs when appealable.

(*a*) that the costs are payable out of or chargeable on some property; or

(*b*) that the mode in which the costs have been given is inconsistent with some enactment for the time being in force.

Illustration.

A, an incumbrancer upon a certain estate, sues to compel the payment of his charge. The Court decrees him his principal and interest, but refuses his costs. A may appeal against this refusal, for every incumbrancer has a lien for his costs on the property charged.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

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

Court by which decree 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 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.

Notice of every such application shall be served on the judgment-debtor, and the Court after hearing the objections which he or his pleader may urge against the application, may send the decree for execution accordingly.

And the Court to which a decree is sent 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 making it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, the Court making it may send to the local Court of Small Causes the copies and certificate respectively mentioned in clauses (*a*), (*b*) and (*c*) of section 225; and such Court shall thereupon execute the decree as if it had been passed by itself.

Provided that if the Court passing the decree is subordinate to a District Court, it shall send the decree to the District Court to which it is subordinate, and such Court shall deal with the decree as if it had been passed by itself.

Decrees of Courts established by Government of India in Native States.

224. 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 hereinafter provided within the jurisdiction of any Court in British India.

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

225. The Court desiring that a decree passed by itself shall be executed by another Court shall send such other Court,—

(*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.

Provided that if the Court passing the decree is subordinate to a District Court, it shall send such copies and certificate to the District Court to which it is subordinate, and such Court shall forward them to the Court by which the decree is to be executed.

Court receiving copies of decree, &c., to file same without proof.

226. The Court executing a decree 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 Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Transmitted copy of decree or order to have same effect as decree of Court to which it is sent for execution.

227. The copy of the decree and of any order for execution, when filed in the Court to which such copy has been sent for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court.

Execution by High Court, of decree transmitted by other Court.

228. 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.

Appeal from orders for execution of decrees of other Courts.

229. 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.

B.—Of Application for Execution.

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 provisions hereinbefore contained to another Court, then to such Court.

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 former application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting such 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

(*b*) where the decree 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, or

(*c*) where the decree is for money and the decree-holder and the judgment-debtor have entered into an agreement in writing that the amount decreed, with such interest (if any) as may be therein mentioned, shall be discharged by such instalments as, if duly paid, will discharge the said amount and interest at some time within thirty years from the date of the decree, and such agreement has been filed in Court,—the date of the default in paying the instalment in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent any decree-holder from applying for execution of the same 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.

Any one of several decree-holders may apply.

231. If a decree has been passed in favour 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 representatives 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.

Application by transferee of decree.

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 that 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.

Transferree to hold subject to equities enforceable against original holder.

Every transferree 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.

Enforcement of execution by Court applied to.

233. When the holder of a decree sent under the foregoing provisions for execution by a Court other than the Court which made it, applies for execution of the decree to the Court to which it has been so sent, such Court, or any subordinate Court to which the execution of the decree may be entrusted, shall proceed to execute the decree according to the provisions of this chapter so far as the same are applicable, and, so far as they are not applicable, according to its own rules in the like cases:

Such Court shall not enquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was passed had no jurisdiction to pass it.

If judgment-debtor die before execution, application may be made against his representative.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply for its execution 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.

Contents of application for execution of decree.

235. The application for the execution of a decree shall be in writing, verified in manner hereinbefore provided for the verification of plaints, 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 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 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.

Further particulars when application is for attachment of immoveable property.

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

237. If the property be land which, whether it pays revenue to Government or not, is 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.

When application must be accompanied by extract from Collector's register.

238. Every decree-holder applying for an attachment of any moveable property of the judgment-debtor shall annex to his application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of moveable property to be accompanied with inventory.

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;

When Court may stay execution.

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 the person pending the result of the application for such order.

240. Before passing an order to stay execution, or for the restitution of property or the discharge of the judgment-debtor under section 239, 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.

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.

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

Question to be decided by Court executing decree.

(*a*) questions regarding the amount of any mesne profits which by the terms of the decree have been directed to be adjusted in the execution of the decree;

(*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;

(*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 the decree.

D.—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 238, 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.

Explanation III.—This section does not apply unless

(*e*) both decrees are capable of execution at the same time;

(*f*) the parties are the same; 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 the last order 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 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. The warrant for the execution of the decree shall bear the date of the day on which it is issued, and shall be signed by the Judge or such officer as the Court appoints in this behalf, and shall be sealed with the seal of the Court, and delivered to the proper officer to be executed.

Date, signature, seal and delivery.

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. Where a decree is against partners in the name of the firm, execution may issue in manner following:—

Decree against partners in name of firm.

(*a*) against any property of the partners as such:

(*b*) against any person who has admitted in the suit that he is or has been adjudged to be a partner:

(*c*) against any person who has been served as a partner, with the summons, and has failed to appear.

If the decree-holder claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court for leave so to do; and the Court may give such leave if notice of the application has been served on such other person and the liability to execution is not disputed, or, if such liability is disputed, may try and determine the same in any manner in which any issue or question in a suit may be tried and determined.

255. Every decree or order directing a party to pay money, whether by way of compensation, or costs, or otherwise, shall 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.

Explanation.—A decree for mesne profits or any other matter, the amount of which, in money, is to be subsequently determined, is a decree for money within the meaning of this section.

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.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

257. Payment of a sum of money ordered to be paid as the alternative to some other relief granted by the decree shall be enforced in manner hereinbefore provided for the execution of a decree for money.

Order for payment of money as an alternative.

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

Modes of paying money under decree.

(*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.

If the money is paid out of Court or the decree is otherwise adjusted to 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 or his pleader may, within eight days of the date of payment, apply to such Court for an order compelling the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder or his pleader, may make such order.

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 shall 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.

Decrees for specific moveables, or recovery of wives.

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.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, 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.

Decree for specific performance or restitution of conjugal rights.

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.

Decree for execution of conveyances, or endorsement of negotiable instruments.

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 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.

Form and effect of execution of conveyance by Court.

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.

Decree for immoveable property.

264. If the decree be for 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:

Delivery of immoveable property when in occupancy of tenant.

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.

Partition of estate or separation of share.

E.—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, hundís, 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, 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:

Property liable to attachment and sale in execution of decree.

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

(*a*) the necessary wearing apparel of the judgment-debtor, his wife and children:

(*b*) tools of artizans, implements of husbandry and cattle kept *bonâ fide* for agricultural purposes:

(*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*) the right to perform the service of an idol:

(*g*) stipends allowed to military and civil pensioners of Government, and political pensions:

(*h*) 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 labourers and domestic servants:

(*k*) an expectancy of succession by survivorship:

(*l*) a right to future maintenance.

Provided also that nothing in this section shall be deemed 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.

Power to summon and examine persons as to property liable to be seized.

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,

Attachment of debt, share and other property not in possession of judgment-debtor.

(*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:

Attachment of moveable property in possession of defendant.

Provided that when the property seized is subject to speedy and natural decay, 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 livestock and other moveable property, and the officer

Power to make rules for maintenance of attached livestock.

attaching property under this section shall, notwithstanding the provisions of the former part of this section, act in accordance with such rules.

Attachment of negotiable instruments.

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.

Seizure of property in house.

271. If the person executing any process under this Code directing or authorising 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.

Seizure of property in zanánás.

Attachment of property deposited in Court or with Government officer.

272. If the property be deposited in, or 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:

Proviso.

Provided that, if such property is deposited in 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 the Court in which such property is deposited.

Attachment decree.

273. If the property be a decree 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 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 execute its decree and to apply the proceeds in satisfaction of the decree sought to be executed. The Court receiving such notice shall comply with such request. And the holder of any decree attached under this clause shall be bound to give the Court executing the same such information and aid as may reasonably be required.

Attachment of immoveable property.

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

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

A copy of the proclamation shall also be fixed up in the office of the Collector of the District in which the land is situate.

Order for withdrawal of attachment after satisfaction of decree.

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.

Private alienation of property after attachment to be void.

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.

Court may direct coin or currency-notes attached to be paid to party entitled.

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.

Investigation of claims to and objections to attachment of attached property.

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.

Evidence to be adduced by claimant.

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.

Release of property from attachment.

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.

Disallowance of claim to release of property attached.

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.

Continuance of attachment subject to claim of incumbrancer.

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

Saving of suits to establish right to attached property.

283. An order under section 280, 281 or 282 shall not preclude the person against whom it is made from instituting a suit to establish the right which he claims to the property in dispute.

Claims and objections to be made without delay.

284. A claim to attached property, or an objection to the attachment of such property, shall be made without delay to the Court which ordered the attachment;

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

Power to order property attached be sold, and proceeds be paid to person entitled.

285. Any Court may order that any moveable property, and any Court not subordinate to a District Court may direct that any immoveable 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.

V.—*Of Sale and Delivery of Property.*

(*a*)—*General Rules.*

Sales by whom conducted and how made.

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.

Proclamation of sales by public auction.

287. When any interest in 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 interest to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, when the interest 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 interest 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.

Rules to be made by High Court.

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.

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

Indemnity of judges, &c.

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.

Mode of making proclamation.

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 notification shall also be published in the official Gazette and in some local newspaper.

Time of sale.

290. Except in the case of articles subject to speedy and natural decay (which may be sold at once), no sale under this chapter shall 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,

Power to adjourn sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale; and every such sale shall be stopped if, before the lot is knocked down, the debt and costs 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.

Stoppage of sale on tender of debt and costs, or on proof of payment.

Officers concerned in execution sales not to bid for or buy property sold.

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

Defaulting purchaser answerable for loss by re-sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code, 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.

Decree-holder not to bid for or buy property without permission.

When a decree-holder purchases with such permission, the amount due on the decree may be taken as payment in whole or in part, as the case may be, of the purchase-money.

If decree-holder purchase, amount of decree may be taken as payment.

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 for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the proceeds, after deducting the costs of the realization, shall be divided rateably among all such persons:

Proceeds of execution sale to be divided rateably among decree-holders.

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

Proviso where property is sold subject to mortgage.

Provided also that when any property liable to be sold in execution of a decree is subject to a mortgage, the Court may, with the assent of the mortgagee, order that the property be sold free from the mortgage, giving to the mortgagee 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.

Rules as to negotiable securities and shares in public Companies.

297. If the property sold be moveable, 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.

Payment for moveable property 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.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

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

Delivery of moveable property belonging to defendant actually seized.

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.

Delivery of moveable property to which judgment-debtor is entitled subject to lien.

301. When the property 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.

Delivery of debts and of shares in public Companies.

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.

Transfer of negotiable instruments and shares.

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 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.

(c).—Rules as to Immoveable Property.

303. Sales of immoveable property in execution of a decree may be ordered by any Court not subordinate to a District Court.

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

304. Whenever a Court subordinate to a District Court desires that any interest in immoveable property be sold in execution of a decree, it shall refer the case to the District Court to which it is subordinate, and such Court shall have the same power of causing the said interest to be sold as if the decree had been made by itself.

Procedure as to sale of land in execution of decree of subordinate Court.

Nothing in this section applies to Courts of Small Causes.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court conducting the sale that there is reason to believe

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

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.

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.

Where such certificate has been granted and so long as it remains in force, the provisions of section 248 shall not apply, and the year mentioned in that section, clause *(a)*, shall be computed from the date of the expiry of the certificate.

The Court may, on the application of the judgment-debtor, sell any other immoveable property of the judgment-debtor in lieu of the property comprised in such order.

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 sunset of 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 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 proclamation 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, if the lot has been knocked down to a stranger, any co-sharer may, by application to the officer conducting the sale, claim to take the share sold at the sum at which the lot was so knocked down.

Co-sharer of a share of undivided estate sold in execution may claim share at sale-price.

If the claim be made before sunset on the day of sale, and the claimant then repay to the purchaser the amount of his deposit, the claimant shall be substituted for the person to whom the lot has been so knocked down and shall be bound by all the conditions then binding on the purchaser, and the provisions of the last three preceding sections shall apply.

311. Any person whose interest in 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;

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

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.

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.

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 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, within sixty days from the date of the sale, apply to the Court to set aside the sale on the ground that the person whose interest in the property purported to be sold had no legally saleable interest therein, and the Court may make such order as it thinks fit.

Power to apply to set aside the sale.

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

Confirmation of sale.

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

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

or when it is found that the judgment-debtor had no saleable interest in the property 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 the purchaser a certificate to the effect that he has purchased such property, and such certificate shall be deemed to be a valid transfer of such interest.

Certificate to purchaser of immoveable property.

317. The certificate shall state the name of the person who, at the time of sale, is declared to be the purchaser and the date of the attachment; and the purchase shall be deemed to take effect from such date.

Certificate to state name of actual purchaser.

No person shall maintain any suit against the certified purchaser on the ground that the purchase

Benámi purchaser not recognized.

was made on behalf of such other person, or on behalf of some one through whom such other person claims.

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 defendant subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall 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 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 interest in immoveable property to be sold, shall be transferred to the Collector; and rescind or modify any such declaration. 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.

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

321. Whenever the execution of a decree has been so transferred, if the Collector has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such interest, 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) as he thinks fit not exceeding the rate of six per cent. per annum,

Powers of Collector as to execution of decrees so transferred.

(*a*) by selling part of the judgment-debtor's interest in such property or in any other immoveable property:

(*b*) by mortgaging the whole or any part of such interest:

(*c*) by letting on farm, or managing by himself or another, the whole or any part of such interest for any term not exceeding twenty years from the date of the order of sale, or

(*d*) 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 interest, the Collector may exercise all the powers of its owner.

322. If the Collector proposes to proceed under this section 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 the publication.

Procedure of Collector.

Such notice shall be published by being posted at the Court which made the order under section 303, and at such other places (if any) as the Collector thinks fit.

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

323. If on the expiration of 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 judgment-debtor's interest in 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 interest accordingly.

Sale by Collector.

324. Whenever the Collector sells any interest pursuant to the said order of sale or exercises any of the powers conferred upon him by the last preceding section, 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 interest, and shall hold the balance at the disposal of such Court.

Sale, &c., to be reported to Court by Collector.

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

Application of balance.

325. 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 make provision for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of sections 321 to 324 (both inclusive) shall in such case apply to the Collector.

When Court may authorize Collector to stay public sale of land.

326. 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, or prohibiting such sales

Local rules as to sales of land in execution of decrees for money.

(*a*) where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

(*b*) where for reasons of State the Local Government thinks that such class of interests should not be compulsorily transferrable:

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

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

G.—Of Resistance to Execution.

327. If in the execution of a decree for the possession of property, the officer entrusted 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.

Procedure in case of obstruction to execution of decree.

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.

328. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, on the ground that the property is not comprised in the decree or on any other ground, the Court shall enquire into the matter of the complaint, and pass such order as it thinks fit.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. 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 effectual 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 proceedings to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for the punishment of such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term not exceeding thirty days, and direct that the decree-holder be put into possession of the property.

Procedure when obstruction continues.

330. 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;

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

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 of 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, section 9,

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

331. 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 *bonâ 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.

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

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, section 9,

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.

332. The order passed under either of sections 330 and 331 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 330 and 331 to have force of decrees, and to be subject to appeal.

333. 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.

334. 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 enquire into the matter of

Obstruction by claimant other than defendant.

the resistance or obstruction, and pass such order thereon as it thinks fit.

The party against whom such order is passed may bring a suit to establish his right to the present possession of the property at any time within one year from the date of such order.

H.—Of Arrest and Imprisonment.

Place of judgment-debtor's imprisonment.

335. 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 jail of the district in which the Court ordering the imprisonment is held, or, when such jail does not afford suitable accommodation, in any other jail which the Local Government may appoint for the confinement of persons ordered to be imprisoned by the Courts of such district:

Proviso.

Provided 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.

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 the judgment-debtor express his intention so to apply, and if he furnish sufficient security for his appearance at any time when called upon, the Court shall release him from arrest.

Warrant for arrest to direct judgment-debtor to be brought up.

336. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court.

Latest day for return of warrant to be specified.

337. A day shall be specified in the warrant on or as soon as possible after which it is to be returned,

and unless the amount which the judgment-debtor has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid, such officer shall bring him before the Court with all convenient speed.

Scales of subsistence allowances.

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.

Judgment-debtor subsistence-money.

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.

Subsistence money to be added to amount of decree.

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 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.

Endorsement on warrant.

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.

Power to apply to be declared an insolvent.

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

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 place 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,

(*a*) order him to be immediately committed to jail; or

(*b*) leave him in the custody of the officer of Court 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 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 within two months next before the date of 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 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 frame a schedule of the persons who have proved themselves to be the insolvent's creditors, and of their respective debts; and the declaration under section 351 shall be deemed to be a decree in favour 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.

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 he 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.

Effect of order appointing Receiver.

354. Every order under section 351 shall be published in the 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;

Receiver to give security and collect assets.

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.

Discharge of insolvent.

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

Duty of Receiver.

(*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 at 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.

His right to remuneration.

Delivery of surplus.

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.

Effect of discharge.

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

Procedure in case of dishonest applicant.

(*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 not exceeding 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 314 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.

Investment of other Courts with powers of District Courts.

Transfer of cases.

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.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.

No abatement by party's death, if cause of action survive.

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.

Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.

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.

Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.

364. If no application be made to the Court within a reasonable time not exceeding thirty days by any person claiming to be the legal representative of

Proceeding where no application made by representative of deceased plaintiff.

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, 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.

Proceeding in case of death of sole, or sole surviving, plaintiff.

366. If no such application be made to the Court within a reasonable time not exceeding thirty days 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;

Abatement where no application by representative of 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 and for proceeding with the suit in order to a final determination of the matter in dispute.

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.

Procedure in case of dispute as to representative of deceased plaintiff.

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,

Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.

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 the wife alone.

Suit not abated by marriage of female party.

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.

When plaintiff's bankruptcy or insolvency bars suit.

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, within eight days after such neglect or refusal, apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be recovered from the plaintiff's estate.

Procedure when assignee fails to continue suit or give security.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Effect of abatement on parties' rights.

But the person claiming to be the 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.

Application to set aside abatement or dismissal.

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.

Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

373. If, at any time after the institution of the suit, but before judgment, 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 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.

Limitation-law not affected by first suit.

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.

Compromise of suits.

375. If a suit be adjusted by mutual 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, and such decree shall be final.

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.

Notice of deposit.

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.

Interest on sum deposited not allowed to plaintiff after receipt of notice.

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.

Procedure where plaintiff accepts deposit as satisfaction in part.

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 he accepts it as satisfaction in full.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall file in Court a statement to that effect, 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 Rs. 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 shewn that the litigation was necessary.

(*c*). A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

When security for costs is to be furnished by plaintiff on presenting plaint.

380. When the plaintiff ordinarily resides out of British India, and does not possess any sufficient immoveable property within British India independent of the property in suit, he shall, if any defendant so requires, on presenting the plaint or within such time as the Court may fix, furnish security for the payment of the costs that may be incurred by the defendant.

When security for costs may be required from plaintiff at any stage of suit.

381. If 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 such plaintiff or plaintiffs does not or do not possess any sufficient immoveable property within British India independent of the property in suit, the Court may, 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 such defendant.

Procedure where requisition is not complied with.

In the event of such security not being furnished within the time so fixed, the Court shall pass a decree against the plaintiff or plaintiffs by default, unless he or they be permitted to withdraw from the suit under the provisions of section 373.

Residence out of British India.

382. A person is considered to be resident out of British India, within the meaning of sections 380 and 381 who 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.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

Cases in which Court may issue commission to examine witness.

383. Any Court may by order 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.

Order for commission may be made either on application of parties or by Court of its own accord.

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 proceeding or of the witness to be examined.

When witness resides within Court's jurisdiction.

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 issuing the commission thinks proper to appoint to execute the same:

Provided that where the Court issuing the commission is subordinate to a District Court, and is not a Court of Small Causes, the exercise of the power conferred by this section shall be subject to such rules as the District Court may from time to time prescribe, as to the officers or persons to whom commissions may be issued.

When witness resides beyond Court's jurisdiction, but in British India.

386. Any District Court and any Court of Small Causes may 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.

If the suit in which it is desired to issue such commission be pending in any Court (other than a Court of Small Causes) subordinate to the District Court, the District Court may issue it on the application of such subordinate Court.

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:

When witness is within local limits of ordinary original civil jurisdiction of a High Court.

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:

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.

When witness is not within British India.

387. In the case of a person residing at any place not within British India, the Court, if satisfied that the evidence of such person is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a commission for his examination.

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 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 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.

393. The Commissioner, unless otherwise directed by the order of appointment, may 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.

Commissioner may examine parties and witnesses and call for papers.

The Commissioner may also call for and examine documents and other papers relevant to the subject of enquiry.

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.

394. 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.

Report and depositions to be evidence in suit.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

395. 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.

Commission to investigate and adjust accounts.

396. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

Court to give Commissioner necessary instructions.

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his examination.

397. 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 enquiry as is requisite.

Proceedings of Commissioner receivable in evidence.

Power to make further enquiry.

D.—General Provisions.

398. 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.

Expenses of Commission to be paid into court.

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 situated beyond, the limits of British India.

Attendance, examination and punishment of witnesses before Commissioner.

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.

Procedure *ex parte* where parties do not appear.

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.

Suits may be brought *in formâ pauperis*.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed for 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.

What suits excepted.

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.

Application to be in writing.

Contents of application.

404. Notwithstanding anything contained in section 40, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under section 642 or 643, 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 shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Presentation of application.

405. If the application be not framed or presented in the manner laid down in sections 403 and 404, the Court shall reject it.

Rejection of application.

406. If the application be in form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant

Examination of 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.

If presented by agent, Court may order applicant to be examined by Commission.

407. If it appear to the Court upon such examination

Rejection of application.

(*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,

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.

Notice of day for receiving evidence of applicant's pauperism.

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.

Procedure at hearing.

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 for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Procedure if application admitted.

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 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.

Costs when pauper succeeds.

Recovery of court-fees.

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;

Procedure when pauper fails.

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.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

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—

Dispaupering.

(*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 enquiry into pauperism are costs in the suit.

Costs.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against the Government shall be brought by or against (as the case may be) the Secretary of State for India in Council.

Suits by or against Secretary of State in Council.

No suit against the Secretary of State for India in Council and no suit against a public officer for any act alleged to be done by him in his official capacity shall be instituted in any Court inferior to a District Court. Any such suit may be transferred by order of the Court in which it is instituted to any Court subordinate thereto, and otherwise competent to entertain such suit.

Courts in which such suits shall be instituted.

Nothing contained in the second paragraph of this section shall affect suits to which Government is a party, the trial whereof is provided for by any local law.

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.

Persons authorized to act for 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."

Plaints in suits by Secretary of State in Council.

419. The person appointed to act as pleader on the part of Government in any Court, shall be the agent of the Government for the purpose of receiving processes against the Government or the said Secretary of State in Council, issuing out of the Court in which such person may be the pleader of Government.

Agent of Government to receive process.

420. If the suit be against the said Secretary of State in Council or against a public officer for any such act as aforesaid, the summons shall be served on the Government Pleader of the Court in which the suit is instituted, or on any other person appointed to receive process on behalf of the Government.

Service on Government Pleader.

421. 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.

Appearance and answer by Secretary of State in Council.

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. If the defendant be 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 shall appear to the Court that the summons may be most conveniently so served.

Service on public officers.

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;

Extension of time to enable officer to make reference to Government.

and the Court upon such application may extend the time for so long as appears to be requisite.

424. No suit shall be instituted under this chapter 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, 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.

Notice previous to suing Secretary of State in Council or public officer.

Unless such notice is proved, the Court shall find for the defendant.

Every suit against a public officer for compensation for an act alleged to be done in his official capacity shall be commenced within six months next after the cause of action arises, and not afterwards.

425. If the Government undertake the defence of a suit under this chapter 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.

Application where Government undertakes defence.

426. 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.

Procedure where no such application made.

Defendant not liable to arrest before judgment.

427. If in a suit under this chapter against a public officer the Court requires the personal appearance of the defendant, and the defendant satisfies the Court that he cannot absent himself from his duty without detriment to the public service, the Court shall exempt him from appearing in person.

Exemption of public officers from personal appearance.

428. 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.

Procedure where decree is against Government or a public officer.

Execution shall not issue on any decree mentioned in this section unless it remains unsatisfied for the period of three months computed from the date of the report.

429. Where there is no Government Pleader the functions imposed by this chapter on the Government Pleader may be performed by such officer as the Local Government generally or specially appoints in this behalf.

Performance of Government Pleader's functions.

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.

When aliens may sue.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

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 this 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 this section, be deemed to be an alien enemy.

431. A foreign State may sue in the Courts of British India, provided that—

When a foreign State may sue.

(*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.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

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 otherwise) be sued in any competent Court not subordinate to a District Court:

Suits against Sovereign Princes, &c.

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 suit is for the determination of any right to, or interest in, immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

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.

Sovereign Princes, &c., exempt from arrest.

When their property may be attached.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

Execution in British India of decrees of Courts of Native States.

(*a*) declare that the decrees of Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, 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.

Subscription and verification of plaint.

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

Service on Corporation or Company.

(*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 to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Representation of beneficiaries in suits concerning property vested in trustees, &c.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Joinder of executors and administrators.

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.

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.

Husband of married executrix not to join.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

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

Minor must sue by next friend.

of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

Costs.

441. Every application to the Court on behalf of a minor (other than an application under section 450) shall be made by his next friend, or his guardian for the suit.

Applications to be made by next friend or guardian *ad litem*.

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 in writing of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Plaint filed without next friend to be taken off the file.

Costs.

443. Where the defendant to a suit, or respondent to an application, 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 and management of the case.

Guardian *ad litem* to be appointed by the Court.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

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, 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.

Order obtained without next friend or guardian may be discharged.

Costs.

445. Any person, being *sui juris*, 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 or respondent in or to the suit or application.

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 or respondent whose interest is adverse to that of such minor, as to make it unlikely that the interest of such minor will be properly protected by him, or if he does not do his duty, or, pending the suit or application, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of such minor or by a defendant or respondent for his removal, and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly and a guardian for the suit to be substituted.

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.

448. 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.

449. On the death or removal, as aforesaid, of a next friend, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

450. 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.

451. On the appointment of a new next friend his name as such shall thenceforth be inserted in the proceedings.

Name of new next friend to be inserted in proceedings.

452. Before the name of any person can be used as the next friend of a minor, he shall sign a written authority to the pleader for that purpose, which authority shall be filed in Court.

Written authority to act for next friend to be filed.

453. 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.

Course to be followed by minor plaintiff or applicant on coming of age.

If he elects to proceed with it, he shall obtain 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."

If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, obtain an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

When minor sole plaintiff, or sole applicant.

Costs.

In either case the application may be made by petition *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff or co-applicant, on coming of age, and desiring to repudiate the suit or application, must apply to have his name struck out as co-plaintiff or co-applicant.

When minor co-plaintiff or co-applicant.

The application shall be by summons to the next friend, as well as to the defendant or respondent; 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 or matter, shall be paid by such persons as the Court directs.

Costs.

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 or sole applicant, apply to have the suit dismissed.

When suit or proceeding unreasonable or improper.

The application shall be by summons to 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 any thing done in the suit.

Costs.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. The petition must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit or application, adverse to that of the minor, and that he is a fit person to be so appointed.

Petition for appointment of guardian *ad litem*.

457. A co-defendant or co-respondent, if *sui juris*, may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a party applicant, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit dies pending a suit or application against a minor, a new guardian shall be appointed in his place.

On death of guardian, *pendente lite*, new guardian to be appointed.

459. If the guardian for the suit of a minor defendant or respondent 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.

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, and the decree-holder shall serve on such guardian notice in writing 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 such next friend or guardian for the suit shall 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 without the leave of the Court.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

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 Court under any local law.

Wards of Court.

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.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

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 depôt, 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.

Person so authorized may act personally or appoint pleaders.

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 it had been served on the party in person or on his pleader.

Service on person so authorized, or on his pleader, to be good service.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to the commanding officer of such officer or soldier for the purpose of being served on him.

Service on officers and soldiers.

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.

Execution of warrant of arrest in cantonments, &c.

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 bázár, 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 shall cause the person named therein to be arrested if within the limits of his command, and delivered to the officer so charged of the warrant.

CHAPTER XXXIII.

INTERPLEADER.

When interpleader suit may be instituted.

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.

Plaint in such suit.

471. In every suit of interpleader the plaint must, in addition to the other statements necessary for plaints, 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.

Payment of thing claimed into Court.

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.

Procedure at first hearing.

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.

When agents and tenants may institute interpleader suits.

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.

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.

Charge of plaintiff's costs.

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.

Procedure where a defendant is suing stakeholder.

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 that a decree has been made in the interpleader suit in favour of the stakeholder, 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.

PART IV.

OF 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 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.

Order to bring up defendant to show cause why he should not give security.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied

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.

If defendant fail to show cause, Court may order him to make deposit or give security.

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.

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.

Procedure in case of application by surety to be discharged.

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.

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.

Procedure where defendant fails to give security or find fresh security.

481. If the defendant fail to comply with an 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 for a longer period than six months.

Subsistence of defendant arrested.

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.

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

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.

Contents of application.

The application shall, unless the Court otherwise directs, contain a specification of the property required to be attached, and the estimated value thereof.

Court may call on defendant to furnish security or show cause.

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 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.

Attachment if cause not shown or security not furnished.

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.

Withdrawal of attachment.

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 ordered to be attached, the Court shall order the attachment to be withdrawn.

Mode of making attachment.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

Investigation of claims to property attached before judgment.

487. If any claim be preferred to the property attached before judgment, such claims 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.

Removal of attachment when security furnished.

489. Attachment before judgment shall not affect the rights 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.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

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.

Property attached under this chapter, not to be re-attached in execution of decree.

C.—Compensation for improper Arrests or Attachments.

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,

Compensation for obtaining arrest or attachment on insufficient grounds.

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 occasioned to him by the arrest or attachment:

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

Proviso.

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.

492. If in any suit it be proved by affidavit or otherwise

Cases in which temporary injunction may be granted.

(*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 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.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, and whether compensation be claimed in 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 the repetition or the continuance of the breach of contract or wrongful act complained of, or the committing of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

Injunction to restrain repetition or continuance of breach.

Such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit.

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 may in all cases, and shall in all cases except where it appears to the Court that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice in writing 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.

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.

Order for injunction may be discharged, varied or set aside.

497. If it appears to the Court that the injunction was applied for on insufficient grounds, or

Compensation to defendant for issue of injunction on insufficient grounds.

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 occasioned 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.

Proviso.

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.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.

(*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, authorise 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, authorise 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 authorised 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.

Application for such orders to be after notice.

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, forms 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;

When party may be put in immediate possession of land, the subject of suit.

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.

Deposit of money, &c., in Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS AND DEPOSIT IN COURT.

503. Whenever it appears to the Court to be necessary for the preservation or the better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may

Power of Court to appoint Receivers.

(*a*) appoint a Receiver of such property,

and may, 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 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.

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.

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. But whenever the Judge of a Court subordinate to a District Court considers it expedient to appoint a Receiver in any suit before him, he shall refer the case to the District Court with his opinion to that effect, and the District Court shall make such order thereon as it thinks fit.

Courts empowered under this chapter.

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

Parties to suit may apply for order of reference.

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.

Nomination of arbitrator.

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.

When Court to nominate 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.

Order of reference.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except in the case provided for by section 512, or unless, owing to the death, refusal, neglect, incapacity or departure from India of the arbitrator, the reference be fruitless, in which case the Court may issue an order superseding the arbitration and restoring the suit to the file of the Court.

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,

When reference is to two or more, order to provide for difference of opinion.

(*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 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, if any of the parties so desire, may 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.

Death, incapacity, &c., of arbitrators or umpire.

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, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Appointment of umpire by Court.

512. Every arbitrator or umpire appointed under sections 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

Powers of arbitrator or umpire appointed under sections 509, 510, 511.

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.

Summoning witnesses.

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.

Punishment for default, &c.

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.

Extension of time for making award.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators

When umpire may arbitrate in lieu of 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 an award in a suit has been made, the persons who made it shall sign it and file it in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing of the award shall be given to the parties.

Award to be signed and filed.

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.

Arbitrators or umpire may state special case.

518. On the application of either of the parties, the Court may, by order, modify or correct an award,

Court may, on application, modify or correct award in certain cases.

(*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, on the application of any of the parties or of the persons making the award, make such order as it

Order as to costs of arbitration.

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. In any of the following cases 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, that is to say:—

When award or matter referred to arbitration may be remitted.

(*a*) if the award has left undetermined any of the matters referred to arbitration, or if it determine any matter not referred to arbitration;

(*b*) if the award is so indefinite as to be incapable of execution;

(*c*) if 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)—

Grounds for setting aside award.

(*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 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,

Judgment to be according to award.

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.

Decree to follow.

523. When any persons by an instrument in writing agree 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 such Court.

Agreement to refer to arbitration may 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.

Application to be numbered and registered.

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.

Notice to show cause against filing it.

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 all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of this chapter applicable to proceedings under order of reference.

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 whole matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of 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.

Application to be numbered and registered.

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.

Notice to parties to arbitration.

526. If no sufficient cause be shown against the award, the Court may order it to be filed, and such award may then be enforced as a decree upon an award made under the provisions of this chapter.

Filing and enforcement of such award.

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

Power to state case for Court's opinion.

(*a*) that upon the finding of the Court in the affirmative or negative of such question, 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*) that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(*c*) that one or more of the parties shall do or perform, or refrain from doing or performing 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 questions raised thereby.

When value of subject-matter must be stated.

528. If the agreement is for the delivery of any property, or for the doing or performing, or the refraining from doing or performing, 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.

Agreement to be filed and numbered as a suit.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court of the lowest grade having jurisdiction in the matter to which it relates, and, when so filed, 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 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.

Parties to be subject to Court's jurisdiction.

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.

Hearing and disposal of the case.

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 of fact or law stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to deliver 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.

Institution of summary suits upon bills of exchange, &c.

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. 168, 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 to 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 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.

Payment into Court of sum mentioned in summons.

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 *primâ 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 *primâ facie* right to recover.

Defendant showing defence on merits to have leave to appear.

533. The Court shall, upon application within the period of seven days from the service of such summons, 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.

Power to set aside decree.

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.

Power to order bill to be deposited with officer of Court.

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.

Recovery of cost of noting non-acceptance of dishonoured bill.

536. The holder of every dishonoured 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 dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Procedure in suits under this chapter.

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.

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

(*a*) High Courts established under Royal Charter;

(*b*) the Chief Court of the Panjáb;

(*c*) the Court of the Recorder of Rangoon;

(*d*) the Courts of Small Causes in the Presidency Towns;

(*e*) the Court of the Judge of Karáchi; and

(*f*) any other Court 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.

PART VI.

OF APPEALS.

CHAPTER XL.

OF APPEALS FROM ORIGINAL DECREES.

Appeal to lie from all original decrees, except when expressly prohibited.

539. 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.

Form of appeal.

540. The appeal shall be made in the form of a memorandum in writing presented by the appellant or his pleader, and shall be accompanied by a copy of the decree appealed against and of the judgment on which it is founded.

Memorandum to be accompanied by copy of decree and judgment.

Memorandum of appeal.

541. The memorandum of appeal 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.

Appellant confined to grounds set out.

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:

Provided that the Court shall not rest its decision on any ground set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection of memorandum or grounds of objection.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, such memorandum or grounds may be rejected or 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.

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.

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

544. If there be more plaintiffs or more defendants than one in a suit, and the decree appealed against proceed 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 reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

Illustrations.

(*a*). A sues B and C on a promissory note. The defendants plead payment. The Court decrees in favour of A. B alone appeals. The Appellate Court, holding that payment has been made, may reverse the decree in favour of both B and C.

(*b*). A sues B and C on a promissory note. B pleads payment and C pleads the Limitation Act. The Court overrules both pleas and decrees in favour of A. B alone appeals. The Appellate Court may be of opinion that payment has been made, but cannot, on B's appeal, reverse the decree as regards C.

Of staying and executing Decrees under Appeal.

Execution of decree not stayed solely by reason of 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.

Stay of execution of appealable decree before time for appealing has expired.

If an application be made for the execution of a decree which is open to appeal, before the time allowed for appeal has expired, the Court may for sufficient cause order the execution to be stayed.

Provided that no order shall be made under this section unless the Court 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.

Security in case of order for execution of decree appealed against.

546. If an order is made for the execution of a decree against which an appeal has been preferred, the Court which passed the decree may, on sufficient cause being shewn by the appellant, require security to be given for the restitution of any property which may be taken in

execution of the decree, or 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.

No such security to be required from Government or public officers.

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 from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Of Procedure in Appeal from Decrees.

Registry of memorandum of appeal.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of admission, and shall register the appeal in a book to be kept for the purpose.

Register of appeals.

Such book shall be called the Register of Appeals.

Appellate Court may require appellant to give security for costs.

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 either of the appeal, or of the original suit, or of both:

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 to which the appeal relates.

When appellant resides out of British India.

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.

Transmission of papers to Appellate Court.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court to which such notice is sent shall, upon the receipt thereof, transmit with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court:

Power to confirm decree of lower Court without sending it notice.

Provided that 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 appellant shall be notified to the same Court.

Cross-objections to decree of lower Court.

551. Either party may make an application in writing to the Court against whose decree the appeal is made, specifying any papers of which he requires copies to be made and deposited in such Court; and copies of such papers shall be prepared at the expense of the applicant, and shall be deposited accordingly.

Day for hearing appeal.

552. The Appellate Court shall fix a day for hearing the appeal.

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 a sufficient time to enable him to appear and answer the appeal on such day.

Publication and service of notice of day for hearing appeal.

553. Notice of the day so fixed shall be stuck up in the appellate courthouse, 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 his pleader in the manner provided in chapter VI for the service of a summons to a defendant 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.

Appellate Court may itself cause notice to be served.

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.

Contents of notice.

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*.

Procedure on Hearing.

Right to begin.

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.

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.

Dismissal of appeal for appellant's default.

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.

Hearing appeal *ex parte*.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

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:

Proviso.

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.

Re-admission of appeal dismissed for default.

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.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

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.

Re-hearing on application of respondent against whom *ex parte* decree is made.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may, within thirty days of the date of the decree, 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.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

561. Any respondent, though he may not have appealed against any part of the decree, may, upon the hearing, take any objection to the decree which he could have taken by way of appeal, provided he has given through the Court to the appellant seven days' notice of such objection.

Form of notice, and provisions applicable thereto.

Such notice shall be in the form of a memorandum, and the provisions of sections 540, 541 and 542, so far as they relate to the form and contents of the memorandum of appeal, shall apply to such notice.

The respondent cannot by such notice raise questions between himself and any party to the suit, other than the appellant.

Remand of case by Appellate Court.

562. If without going into the merits, 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, remand the case, together with a copy of the decree or 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

(*a*) to proceed to investigate the suit on the merits, and pass a decree thereon; or

(*b*) to try a particular issue; or

(*c*) to take certain specified evidence.

When further evidence barred.

563. When a case is remanded with directions to take such evidence, 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.

Limit to remand.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

When evidence on record sufficient, Appellate Court shall determine case finally.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court may, if necessary, resettle the issues, and shall 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 Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

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,

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.

Determination of appeal.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Production of additional evidence in Appellate Court.

568. The parties to an appeal shall not be entitled to produce additional 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 reason for the admission shall be recorded on the proceedings of the Court.

Mode of taking additional evidence.

569. Whenever additional evidence is allowed to be received, the Appellate 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.

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, 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.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which a 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.

Language of judgment.

572. The judgment shall be written in English; provided that if English is 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.

Translation of judgment.

573. When the language in which the judgment is written is not the language 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, 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.

When appeal heard by more Judges than one.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of the majority (if any) of such

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.

Dissent to be recorded.

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 decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

What judgment may direct.

577. The judgment may be for confirming, varying, or reversing the decree 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.

No decree to be reversed or modified for error or irregularity.

578. No decree shall be varied or reversed 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.

Of the Decree in Appeal.

Contents of decree.

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:

Judge dissenting from judgment need not sign decree.

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.

Copies of judgment and decree to be furnished to parties.

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

Certified copy of decree to be sent to Court whose decree is appealed against.

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 suit.

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 in respect to adjournments, granting of time, arrest or attachment before judgment, issue of injunctions, examination of the parties or their pleaders and of witnesses or other persons, issue of commissions, award of interest or mesne profits, separation of misjoined suits, permission to bring fresh suits, or otherwise, as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under chapter V.

The provisions of such chapter, unless when otherwise provided, shall apply to appeals under this chapter so far as the same are applicable.

Execution of decree of Appellate Court.

583. When a party in whose favour a decree is passed in an appeal under this chapter is desirous of obtaining execution of the same, he shall apply to the 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 XLI.

OF APPEALS FROM APPELLATE DECREES.

Second appeals to High Court.

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)—

Grounds of second appeal.

(*a*) the decision being contrary to some specified law or usage having the force of law;

(*b*) the decision having failed to determine some 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.

No second appeal in certain suits.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the debt, compensation or demand for which the original suit is instituted, does not exceed the sum of five hundred rupees.

Provisions as to second appeals.

587. Every memorandum of appeal under this chapter shall be accompanied by a copy of the decree appealed against,

and the provisions contained in chapter XL shall apply as far as may be to appeals under this chapter,

Execution of decree in second appeal.

and the decree made by the appellate Court shall be executed by the Court which made the decree in the suit in which such appeal was preferred, under the rules hereinbefore provided for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM ORDERS.

Orders appealable.

588. An appeal shall lie from the following orders under this Code and from no other such orders:—

(*a*) orders under section 19, staying proceedings in a suit,

(*b*) orders under section 24, determining whether immoveable property is or is not within the local limits of the Court's jurisdiction,

(*c*) orders under section 32 striking out or adding the name of any person as plaintiff or defendant,

(*d*) orders under section 44, adding a cause of action,

(*e*) orders under section 47, excluding a cause of action,

(*f*) orders rejecting or returning plaints under section 53, clause (*d*), or section 54, clauses (*b*) and (*d*), or section 57, clause (*c*),

(*g*) orders rejecting applications under section 102 in cases open to appeal for an order to set aside the dismissal of a suit,

(*h*) orders under section 120 where a party fails to appear,

(*i*) orders under section 168 for attachment of property,

(*j*) orders under section 176 where a party refuses to give evidence or produce a document called for by the Court,

(*k*) orders under section 244 as to questions relating to the execution of decrees,

(*l*) orders under section 261 as to objections to draft conveyances or draft endorsements,

(*m*) orders under section 312 for setting aside, or under section 314 for confirming, a sale,

(*n*) orders in insolvency matters under section 351, 352, 357, or 359,

(*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, 503 or 513,

(*s*) orders under section 518 modifying an award,

(*t*) 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.

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, clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*), (*o*), (*p*), (*q*), (*r*), (*s*) and (*t*) 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.

Procedure in appeals from orders.

590. The procedure prescribed in chapter XL 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.

No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

591. Except as provided in this chapter, no appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

CHAPTER XLIII.

OF PAUPER APPEALS.

Who may appeal as pauper.

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, XL, XLI and XLII, in so far as those rules are applicable:

Procedure on application for admission of appeal.

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.

Enquiry into pauperism.

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:

Proviso.

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 enquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such enquiry.

CHAPTER XLIV.

OF APPEALS TO THE QUEEN IN COUNCIL.

Appeals defined.

594. In this chapter, unless there be something repugnant in the subject or context, the expression "appeal" includes also judgment and order.

Appeals to lie to Queen in Council.

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

(*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, whenever 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.

Certificate as to value or fitness.

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.

Security and deposit required on grant of certificate.

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,

(*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, the 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.

Revocation of acceptance of security.

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.

Power to order further security or payment.

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 adequate security, or to make, within like time, the required payment.

Effect of failure to comply with order.

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.

Refund of balance of deposit.

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.

Powers of Court pending appeal.

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.

Increase of security found inadequate.

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 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.

Procedure to enforce orders of Queen in Council.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition accompanied by a copy of the decree or order made in appeal sought to be enforced or executed, to

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.

Appeal against order relating to execution.

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.

Amendment of Act IX of 1871, schedule II, No. 169.

612. The first column of No. 169 of the second schedule annexed to the Indian Limitation Act, 1871, shall be read as if the following words were added thereto (that is to say): "or any order of Her Majesty in Council."

Power to make rules.

613. The High Court may, from time to time, make general 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 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.

Publication of rules.

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.

Legalization of existing rules.

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.

Recorder of Rangoon.

614. In sections 595 and 613, 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.

Construction of Bengal Regulation III of 1828, section 4, clause 5.

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.

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

and of rules for conduct of business before Judicial Committee.

(*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 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 XLV.

OF REFERENCE TO THE HIGH COURT.

Reference of question to High Court.

617. If before or in 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 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 point on which doubt is entertained, and refer such statement with its own opinion for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court may either stay the proceedings or proceed in the suit or appeal notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued in any case in which such reference is made to the High Court until the receipt of the order of that Court.

If a decree has been made its execution shall be stayed until the receipt of a copy of the judgment of the High Court upon such reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

619. The High Court shall hear the parties to the suit or appeal in which the reference is made, in person or by their respective pleaders, and shall determine the point so referred to it, 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 suit or appeal in conformity with the decision of the High Court.

Costs of reference to High Court.

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

Power to alter, &c., decrees of Court making reference.

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 which the Court making the reference has passed in the suit or appeal out of which the reference arose, and make such order as it thinks fit.

PART VIII.

CHAPTER XLVI.

OF REVIEW OF JUDGMENT.

Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

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 passed any order contrary to law, and may set aside the decision, or pass such other order in the case as the High Court thinks fit.

The District Court may exercise the like powers as to any case decided by any Court subordinate thereto.

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 adduced 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.

To whom applications for review may be made.

624. Except on 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.

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.

Application when granted.

If the Court be of opinion that the review shall be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion:

Proviso.

Provided that—

(*a*) no such review 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 review 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.

Application for review in Court consisting of two or more Judges.

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, continue attached to the Court at the time when the application for a review is presented and are not, or is 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 when rejected.

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.

Order of Court final.

629. The order of the Court whether for granting the review or rejecting the application shall be final, except where the review has been granted without jurisdiction, in which case an appeal shall lie.

Where the application has been rejected in consequence of the failure of the parties to appear, the applicant may, within fifteen days from such rejection, 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 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 XLVII.

SPECIAL RULES RELATING TO THE 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.

Except as provided in this Part, the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

632. Suits may be tried and determined by the High Court in the exercise of its ordinary original civil jurisdiction, if,

Ordinary original civil jurisdiction of the High Court.

(*a*) in the case of suits for immoveable property, the property or any part thereof is situate, or,

(*b*) in all other cases, the cause of action, or any material part of the cause of action, has arisen, or the defendant or any of the defendants at the time of the commencement of the suit dwells, or carries on business, or personally works for gain, within the local limits of such jurisdiction:

Provided that the leave of the Court be first obtained,

(*c*) in the case of suits for immoveable property where only part thereof is situate within such limits, and

(*d*) in other cases where only part of the cause of action has arisen, or only some of the defendants at the commencement of the suit dwell, or carry on business, or personally work for gain within such limits:

Provided also that no High Court shall, in the exercise of its ordinary original civil jurisdiction, try any case in which the debt, or compensation, or value of the property sued for, does not exceed five hundred rupees, and which falls within the jurisdiction of a Small Cause Court situate within the local limits of such jurisdiction.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

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;

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

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.

635. No attorney shall, under the provisions of this Code, be entitled to address the Court or examine witnesses.

Attornies not to address Court.

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 writs of summons 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 act not of a judicial nature which this Code requires to be done by a Judge, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to perform 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 acts not of a judicial nature within the meaning of this section.

638. The procedure in civil cases brought before the High Court in the exercise of its Admiralty or Vice-Admiralty jurisdiction shall be regulated, so far as the circumstances of the case will permit, by the rules prescribed in this Code.

Procedure in Admiralty cases.

In the following cases in the exercise of such jurisdiction, (namely)—

(*a*) cases in which a ship, or a ship and cargo, has or have been or is or are to be proceeded against or arrested,

(*b*) cases in which goods only have been or are to be proceeded against or arrested, either for the purpose of proceeding against the goods or the freight due thereon,

(*c*) cases in which property has been or is arrested and no party has appeared or appears at the return of the warrant, and

(*d*) all other cases in the exercise of Admiralty or Vice-Admiralty jurisdiction in which the rules contained in this Code are not applicable,

the practice and procedure shall be regulated as nearly as possible by the Rules and Regulations made and ordained by his late Majesty King William the Fourth in Council in pursuance of the Second of William the Fourth, chapter 51, and touching the practice to be observed in the several Courts of Vice-Admiralty in the Colonies, except so far as such rules may be inconsistent with the Twenty-fourth and Twenty-fifth of Victoria, chapter 104, or with the Letters Patent granted in pursuance thereof.

639. In suits for mariners' wages brought before the High Court in the exercise of Admiralty or Vice-Admiralty jurisdiction, any number of mariners belonging to the same ship or serving under the same owner may proceed jointly in one suit.

Joinder of mariners in suits for wages.

640. 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 37, 54 clause (*a*), 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 206, 261, 403, 404, 405,

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.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

Code not to affect High Court in exercise of insolvent jurisdiction.

641. The High Court shall have power to frame forms for every proceeding in such Court, for which the High Court thinks it necessary that forms should be provided, and for keeping all books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLVIII.

MISCELLANEOUS.

Exemption from Personal Appearance.

642. 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.

Exemption of certain women from personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

643. 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.

Local Government may exempt certain persons from personal appearance.

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.

List of names of persons exempted to be kept in subordinate Court.

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.

Costs of commission rendered necessary by claiming privilege.

Exemption from Arrest.

644. 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.

Persons exempt from arrest.

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.

Offences in Court.

645. 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 Indian Penal Code, which may be made in respect to any document offered in evidence in the case, the Court may send the person accused in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

Procedure in case of certain offences relating to documents.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall 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.

Forms.

646. Subject to the power conferred on the High Court by section 640 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.

Use of forms in fourth schedule.

Language of Courts.

647. 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 Court until the Local Government otherwise orders;

Language of subordinate Courts.

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.

Statement of Cases by Registrars of Small Cause Courts.

648. 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.

Miscellaneous Proceedings.

649. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court, 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.

Civil Process for Attachment, Sale or Payment.

650. If any property to be attached under this Code is situate without the local limits of the jurisdiction of the Court making the order of attachment, such Court, if a District Court, shall send to the District Court within the local limits of whose jurisdiction such property is situate, a copy of the order together with the probable amount of the costs of the attachment.

Procedure when property to be attached is situate outside the local limits of jurisdiction.

Such District Court shall, on receipt of such copy and amount, cause the attachment to be made as if the original order of attachment had been made by itself, and inform the Court by which such order was made or transmitted of the making of the attachment.

If the Court making the order of attachment is subordinate to a District Court, it shall send such copy to the District Court to which it is subordinate, and such Court shall, if it think fit, deal with the order as if it had been made by itself.

651. The rules contained in chapter XIX shall be applicable to the execution of any judicial process for 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 sale or payment.

Witnesses.

652. 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.

Escape from Custody.

653. 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 be punished with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees, or with both.

Penalty for escaping from custody under Code.

Subsidiary Rules.

654. 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. 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.	The whole Act, except sections 15 and 192.
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.

THE FIRST SCHEDULE.

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 "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 7, 9 and 10.
VI of 1874 ...	The Privy Council Appeals Act, 1874 ..	The whole.

C.—REGULATION REPEALED.

Madras Regulation XIV of 1816.	Vakíls	Section 27.

THE SECOND SCHEDULE.

(*See section* 5.)

Chapters and Sections 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 19, para. 4, and sections 21 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the suit, except sections 42, 44 rule *a*, 45, 46 and 47.

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, para. 1, 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 and 214.

CHAPTER XVIII.—Sections 219, 220 and 221, of Costs.

CHAPTER XIX.—Of the Execution of Decrees, sections 230 to 235 (both inclusive), 238 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, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 302 (both inclusive), 335 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 403.

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.

CHAPTER XXXVII.—Reference to Arbitration, sections 506 to 522, both inclusive.

CHAPTER XXXVIII.—Of proceedings on Agreement of Parties.

CHAPTER XLV.—Reference to High Court.

CHAPTER XLVI.—Of Review of judgment.

CHAPTER XLVIII.—Miscellaneous, sections 642 to 649, both inclusive, sections 651, 652, 653 and 654.

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.

WHITLEY STOKES,
Secy. to the Govt. of India.

Continuation sheets of the Gazette, Part V, published at Simla on this date.

THE FOURTH SCHEDULE.

(*See section* 646.)

FORMS OF PLEADINGS AND DECREES.

A.—PART I. PLAINTS.

No. 1.

FOR MONEY LENT.

IN THE COURT OF AT

Civil Regular 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 , he lent the defendant rupees repayable on demand [*or* on the day of].

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.

2. That on the day of 18 [*or*, on some day unknown to the plaintiff, before 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.

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 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.

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 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 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. , *or* one hundred bighás of land in the town of 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 paymentof 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 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 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 necessaries.

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 necessaries, 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.

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 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 notice 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 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 others] 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* 2, 3 *and* 4 *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 Regular 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.

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 INDORSER 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 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 indorsement 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 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.

(*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, 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.

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.

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 SURETIES FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , one *E. 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 *E. 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.

[*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 on the day of 18 , the plaintiff again demanded such conveyance [*or*, that the defendant refused to execute the same].

4. 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*].

5. 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 [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 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 jugdment.*]

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.

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's 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.

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 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 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.

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 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 so 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 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 , 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 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 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:—

1. The plaintiff is a shoe-maker, carrying on business at
The defendant 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.

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 , a merchant, doing business in the city of

2. That on the day of 18 , at , 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.

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 police 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 he is 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 estimated value rupees *or*, of the house No. , street in the town of Calcutta the estimated value of which is rupees].

2. That the defendant withholds the possession thereof 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 deed, 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 deed the defendant covenanted to keep the said house and premises in good and tenantable repair.

3. The said deed 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 damages 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 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.

(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.*

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 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.

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 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.

[NOTE.—See *Wood* v. *Rowcliffe*, 3 Hare 309. And see 2 Giff. 64.]

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 plainitff 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 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 shew 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.

For 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 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. Divers 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
Pleader for the plaintiff, *or* by

[*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.

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 contribution.
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 solicitors.	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 defendant under colour of the office of
Money overpaid.	The plaintiff's claim is rs. for a return of money overcharged 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 stake-holder.	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.
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.
Surety.	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.*].
Calls.	The plaintiff's claim is rs. for calls upon shares.

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 writ is to be served out of the jurisdiction, or notice in lieu of service is allowed, 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.

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.
The plaintiff's claim is for damages for slander.

Replevin; wrongful distress. 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, and whether the claim be for damages only, or for double value*].

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.

Insurance. 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.

Landlord and tenant. 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.

Medical man. The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal. The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence. The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.
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.

Lord Campbell's Act. 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.

Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods. 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.*].

Sale of goods. The plaintiff's claim is for damages for breach of warranty of a horse.

Sale of land. 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.

Trespass on 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* pulling down 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].

Support. The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house, *or* mine].

Way. The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or* private, way].

Watercourse, &c. 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.

Pasture. 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.*]

Light. The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Sporting. The plaintiff's claim is for damages for the infringement of the plaintiff's right of sporting.

Patent. The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Copy-right. The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.

Trade-mark. The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade-mark.

Work. 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.

Nuisance. 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.*].

Injunction. [*Add to indorsement*]:—and for an injunction.

Mesne profits. [*Add to indorsement where claim is to land, or to establish title, or both*]:—and for mesne profits.

Arrears of rent. and for an account of rents or arrears of rent.

Breach of covenant. 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 any thing, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

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

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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 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.*

By husband and wife executrix.

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

Trustees.

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].

Public officer.

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

Heir and devisee.

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.*

F.—MISCELLANEOUS.

No. 116.

Section 58 of the Code of Civil Procedure.

COURT of the 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, and amount.	Date of Appeal.	Judgment of 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 payment of Arrest, and date of every Return.

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.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas 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, if 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. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

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 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.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a 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.

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 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 Regular 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 Miscellaneous No. of 18 .

The day of 18 .

A. B. of

against

C. D. of

Read proceeding from the forwarding for service on in 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.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 interogatories 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 Regular 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.

SUBPŒNA.

Section 159 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 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 169.

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.

Section 163 of the Code of Civil Procedure.

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 without the leave of the Court.

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 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.	Rs.	A.	P.	DEFENDANT.	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 attendance ...				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, 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 entitled to 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, devisees, 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 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 seised 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 Rs. 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 plaintiffs' 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 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 214 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 good will 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

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No. 133.

PARTNERSHIP. FINAL DECREE.

Section 214 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 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 ainder 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.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 Regular No. 18 , this is to give you notice that you are to appear before this Court on the 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. 135.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANTS POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 255 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS on the day of 18 was ordered, by decree of this Court, passed , in Regular 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			
Total of decree . .			
Interest thereon . .			
Costs 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. 136.

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 has been decreed to , 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. 137.

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 Regular Suit, No. of 18 , whereby certain land or immoveable property was adjudged to , it is ordered that the said 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. 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 favour 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.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT BEING 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 Regular 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, and that you, the said , 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 Regular 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 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.

(*Title.*)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 , in Civil Regular 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 Regular No. of 18 .

A. B. of

against

C. D. of

To

SIR,

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 the person addressed, on what account, &c.), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Dated the day of 18 *Judge.*

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 Regular No. of 18

Miscellaneous No. of 18

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Regular No. 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.

APPOINTMENT OF A MANAGER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 favour of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Manager of the said property under section 269 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. 145.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES BEING GIVEN.

Section 325 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of

against

C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated , representing that the sale in execution of decree in this suit of land, lying 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 honour to be,

SIR,

Your obedient Servant,

L. S.

Judge.

No. 146.

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 Regular 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 right, title and interest of in and to the property attached under a Warrant from this Court dated the of 18 in execution 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.

* 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; you shall also declare that the sale extends only to the right, title and interest of the defendant in the property specified therein.

No. 147.

ORDER CONFIRMING SALE OF LAND, &C.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of

against

C. D. of

WHEREAS the right, title and interest of in 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. 148.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of

against

C. D. of

THIS is to certify that has been declared the purchaser at a sale by public auction on the day of 18 of the right, title and interest of in 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. 149.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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. 150.

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 Regular 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, 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 18 .

L. S.

Judge.

No. 151.

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 Regular 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. 152.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 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. 153.

WARRANT OF ARREST IN EXECUTION.

IN THE COURT OF AT

Civil Regular No. of 18 .
Miscellaneous No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS was adjudged by a decree of the Court, in Regular No. of 18 , dated 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 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. 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.

Principal			
Interest			
Costs			
Execution			
TOTAL .			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 154.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 225 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 Regular 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. 155.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 Regular 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. 156.

NOTICE OF PAYMENT INTO COURT.

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. 157.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS the evidence of is required by the you are requested to take the in the above suit; and whereas examination on interrogatories [*or* vivâ 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.

* Not necessary where the commission goes to another Court.

No. 158.

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 Regular 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. 159.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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. 160.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

N THE COURT OF AT

Civil Regular 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 security, or to offer a sufficient deposit in lieu of

security, which has failed to do; it is ordered that the said Defendant be committed to custody until the decision of the suit; or if judgment be given against until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 161.

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 Regular No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the 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. 162.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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. 163.

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 Regular 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 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. 164.

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 Regular No. of 18 .

A. B. of
against
C. D. of

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. 165.

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 Regular 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 [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. 166.

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 Regular No. of 18

A. B. of
against
C. D. of

To Defendant and

to

Manager of Company.

It is ordered that , the defendant, be and 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. 167.

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 plaint 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, Oilmongers Street, Hindúpur, 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 (*or* which is contained in p. to p. 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, *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. 168.

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 .

A. B.

To *C.D.*

[***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. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular 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 one thousand eight hundred and

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 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. (L. S.)
C. D. (L. S.)

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 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 HIGH 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 XLII 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* hundí *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 to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the bill of exchange, hundí or promissory note, and all endorsements upon it.*]

No. 173.

MEMORANDUM OF APPEAL.

Section 540 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(*Name, &c., as in Register.*) Plaintiff—Appellant.
(*Name, &c., as in Register.*) Defendant—Respondent.

[*Name of Appellant*] [plaintiff *or* defendant] above-named appeals to the High Court at [*or* District Court at , *as the case may be*] against the decree of in the above suit, dated the day of , for the following reasons, namely [*here state the grounds of objection*].

No. 174.

REGISTER OF APPEALS.

Section 550 of the Code of Civil Procedure.

COURT (*OR* HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 18 .

Date of Memorandum.	No. of appeal	Appellant.			Respondent.			Decree Appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

APPEAL from the of the Court of dated the day of 18 .

Respondent.

To

Take notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 18 has been fixed by this Court for the hearing of this appeal.

IF no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

Appeal from the of the Court of dated the day of 18 .

Memorandum of Appeal.

, *Plaintiff*.

, *Defendant*.

Plaintiff [*or* defendant] above-named appeals to the Court at against the decree of in the above suit, dated the day of 18 , for the following reasons, namely;

[*here state the reasons*]

This appeal coming on for hearing on the day of 18 , before , in the presence of for the Appellant, and of for the Respondent, it is ordered—

[*here state the relief granted*]

The costs of this appeal, amounting to , are to be paid by The costs of the original suit are to be paid by

GIVEN under my hand, this day of 18 .

Judge.

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure.

HIGH COURT AT

REGISTER OF APPEALS FROM APPELLATE DECREES.

No.	Date of Memorandum.	Appellant.			No. of Appeal.	Respondent.			Decree Appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.		Name.	Description.	Place of abode.	Of what Court.	No. of Original suit and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

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,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 4, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The 30th October 1876.

[First Publication.]

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of the President, under the 22nd of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations :—

CONSOLIDATED CUSTOMS BILL, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title.
2. Repeal of enactments.
3. Interpretation.

CHAPTER II.

GENERAL RULES.

SECTION.

4. Making, issuing and publishing of rules.
5. Rules respecting passengers' baggage and mails.
   Fee for landing baggage.
6. Appeals how and by whom to be adjudicated.

CHAPTER III.

APPOINTMENT OF OFFICERS, PORTS, WHARVES AND WAREHOUSES.

7. Local Government to appoint necessary officers.
   Suspension and dismissal of such officers.
8. Local Government may delegate its powers under section 7 to Customs Authority.
   Suspension and dismissal of Subordinate Officers.
9. Collector of District to perform duties of Customs Officer, where there is no separate Customs Officer.
10. Power to appoint Ports and Wharves for shipment and landing.
11. Power to declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.
12. Power to declare Warehousing Ports and places.
    Existing Ports to continue in use until otherwise declared.
13. Approval, appointment and licensing of warehouses.

CHAPTER IV.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

SECTION.
14. Import Customs.
15. Export Customs.
16. No duties on goods carried from one Indian Port to another not a free Port.
Proviso as to opium, salt and spirits.
17. Power to exempt from Customs duties.
Power to cancel exemption.
Power to authorize exemption from payment of duty.
18. Baggage in actual use.
Transhipment of goods.
19. Power to permit transhipment with payment of duty.
Proviso.
20. Rules regulating exercise of power.
21. Levy of transhipment fee.
22. Power to prohibit transhipment.
23. Duty on Opium re-exported by Sea.

CHAPTER V.

GENERAL PROVISIONS.

24. Prohibitions and restrictions.
25. Importation without license of arms and ammunition prohibited.
Proviso.
26. Power to prohibit or restrict importation or exportation of goods.
27. Importation and exportation.
28. Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.
Assessment of goods liable to duty according to value.
29. Under-valued goods how dealt with.
30. Duties on goods retained under section 29 for use of Government.
31. Date of importation how determined.
32. Date of exportation how determined.
33. Contracts for sale of goods duty on which is raised or lowered before performance.
34. Duty leviable on sea-borne goods, duty on which has been altered during transit.
35. Re-imported articles of country produce to be deemed Foreign.
Proviso.
36. Officer in charge of Custom House may require goods to be weighed or measured on board before landing.
37. Customs Officer may open package and examine goods shipped.
38. Stations for Customs Officers to board and also land from ship.
39. Power to depute Officer of Customs to board ships.
Proviso.
40. Servant to be received with Officer.
Accommodation of Officer and servant.
41. Officers of Customs to have free access to every part of the ship, and may seal and secure goods.
Officer in charge of Custom House may authorize search and opening of locks.
42. Goods not to be landed on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

CHAPTER VI.

IMPORTATION.

43. Power to fix places beyond which inward bound vessels are not to proceed until manifest delivered.
Delivery of manifest when vessel anchors below reporting station.
44. Power to Master of steamer to enter ship's agent as consignee.
45. Duty of person receiving manifest.
46. Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom House.
47. Master, if required, to deliver bill of lading, &c., to Officer in charge of Custom House.
48. Goods not to leave ship unless entered in manifest.
49. Amendment of errors in manifest.
50. Period to be allowed for landing import cargo.
Consequence of exceeding same.
51. Procedure in respect of goods not landed within time allowed.
52. Effect of not discharging cargo in any earlier period specified in the bill of lading.
53. Goods may be landed at any time after arrival, with consent.
54. Procedure in case of non-payment of duties within four months after entry of vessel.
55. Goods not cleared within two months from date of landing to be sold.
Disposal of proceeds.
Proviso.
56. Goods removed from ship to be forthwith landed.
57. Goods not to be landed elsewhere than at appointed wharf or place.
58. Boat-note.
59. Entry for home-consumption.
60. Claims to abatement of duty on account of damage.
61. Disposal of damaged goods and levy of duty thereon.
62. Goods derelict and wreck to be treated as Foreign goods.
63. No duty on portion of import cargo intended for another Port, ship's stores, &c.

CHAPTER VII.

WAREHOUSING.

SECTION.
64. Deposit of goods in warehouse without payment of duty.
65. Warehouse-keeper.
Responsibility of keeper.
66. Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.
Table of rates of rent.
67. Power to license private warehouses.
Revocation of license.
68. Form of application for license.
69. Form of application for admission of goods into warehouse.
70. No goods to be warehoused without payment of duty, unless assessed for Customs duty.
Public warehouse-keeper, or license-holder of private warehouse, answerable for weight or gauge.
Saving of re-assessment of warehoused goods on clearance for home-consumption.
71. Bond under what circumstances to be taken. Form and conditions of bond.
72. Terms of bond to be executed.
73. Period for which goods may remain warehoused under bond.
74. Procedure in respect of goods to be warehoused.
75. Packages, &c., to be marked and numbered before admission into warehouse.
76. Goods how warehoused.
77. Power to cause packages lodged in warehouse to be opened and examined.
78. Access of Customs Officer to private warehouse.
79. When bond for duty on goods in private warehouse may be sued on.
80. Access of owners to warehoused goods.
81. Goods in warehouse may be sorted, repacked, &c., by owner, &c.
82. Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.
83. Power to remit duties on warehoused goods lost or destroyed,
and if goods are damaged, duty to be levied on actual value.
84. Import duty to be on quantity or value registered at time of importation.
Proviso as to Wines, Spirits, Beer or Salt.
85. Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.
86. Goods not to be removed from warehouse, except after application to Officer in charge of Custom House.
87. Form of application for removal of goods.
Twenty-four hours' notice to be given.
88. Immediate payment of duty on goods improperly taken out of warehouse.
89. Expenses of carriage, packing, &c., to be borne by owners.
90. Payment of rent and warehouse dues.
In case of failure goods may be sold, &c.
Disposal of proceeds.
91. On goods being removed otherwise than for export, &c., full duty to be paid.
92. Procedure on failure to pay duty.
93. Power to remove goods from one warehouse to another.
94. Bonded goods may be removed from one Port to another.
Procedure.
95. Officers at Port of removal to transmit account of goods to Officers at Port of destination.
Owner to execute bond for due arrival, &c.
96. Remover may enter into a general bond.
97. Goods on arrival at Port of destination to be subject to same laws as goods on first importation.
98. Removal of goods to be noted on the bond, with particulars.
99. Register of bonds to be kept.
When bonds are to be cancelled and returned to obligee.
100. Duty on warehoused goods to be settled within three years.
101. Warrant to be given every time goods are warehoused.
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A Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Whereas it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Consolidated Customs Act, 1877."

Short title.

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein, except as to any act done, offence committed, or liability incurred.

Repeal of enactments.

All references to any of the said Acts in Acts passed subsequently thereto shall be read as if made to the corresponding provisions of this Act.

All notifications made, public warehouses appointed, and licenses issued under Act No. VI of 1863 and now in force, shall be deemed to be, respectively, made, appointed and issued under this Act.

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

Interpretation.

(*a*). The words "Chief Customs Authority" denote the persons authorized to exercise, under any Local Government, the chief control in the Department of Customs in any place to which this Act applies:

"Chief Customs Authority."

(*b*). The words "Chief Officer of Customs" denote the Executive Officer of highest rank in the Department of Customs in any Port to which this Act applies:

"Chief Officer of Customs."

(*c*). The words "Officer in charge of the Custom House" include every officer of customs for the time being in separate charge of a Custom House:

"Officer in charge of the Custom House."

(*d*). The word "Magistrate" includes every officer exercising any of the powers of a Magistrate, and, in the Towns of Calcutta, Madras and Bombay, a Presidency Magistrate:

"Magistrate."

(*e*). The words "Customs Port" denote any Port at which duties of customs are leviable:

"Customs Port."

(*f*). The words "Foreign Port" include Aden and any Port not situated in British India:

"Foreign Port."

(*g*). The words "Foreign Goods" include all goods not produced or manufactured in British India:

"Foreign Goods."

(*h*). The word "Vessel" includes anything made for the conveyance by water of human beings or property:

"Vessel."

(*i*). The words "Coasting Vessel" denote any vessel proceeding from one Customs Port to another Customs Port:

"Coasting Vessel."

(*j*). The word "Master" includes every person, except a Pilot, having command or charge of any vessel:

"Master."

(*k*). The word "Warehouse" denotes any place approved, appointed, or licensed under this Act for the keeping and securing of goods entered to be warehoused without payment of duty on the first entry thereof.

"Warehouse."

CHAPTER II.

GENERAL RULES.

4. The Chief Customs Authority may, with the sanction of the Local Government, make and issue rules for regulating the practice and proceedings of officers in the Department of Sea Customs, and may from time to time add to, alter, or revoke such rules or any of them:

Making, issuing, and publishing of rules.

provided that no rule so made shall be inconsistent with this Act or any other law for the time being in force.

All rules made under this section shall be published in the local official Gazette.

5. Any rules made under section 4 may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House, and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels.

Rules respecting passengers' baggage and mails.

When any baggage or parcels are made over to an officer of Customs for the purpose of being landed, a fee of such amount as the Local Government from time to time directs shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

Fee for landing baggage.

6. If any dispute arises between any officer of Customs and any Master of a vessel, or importer, exporter, owner or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating

Appeals how and by whom to be adjudicated.

to the importation, exportation, or warehousing of any goods,

or to the proper rate of duty payable in respect thereof,

or to the levy of any duty or penalty thereon,

or to any seizure or forfeiture thereof,

the Chief Customs Authority, or such officer of Customs as the said Authority from time to time appoints in this behalf, shall settle such dispute, subject to an appeal to the Local Government, acting under the general instructions of the Governor General in Council.

Where the dispute relates to the proper rate of duty in respect of any goods, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation, respectively, the amount of duty demanded by such officer, pending the decision of the Chief Customs Authority.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner or consignee, or his agent.

CHAPTER III.

APPOINTMENT OF OFFICERS, PORTS, WHARVES AND WAREHOUSES.

Local Government to appoint necessary officers.

7. The Local Government of every place in which duties of Sea Customs are levied, shall appoint such persons as it thinks proper to exercise the powers conferred, and to perform the duties imposed, by this Act.

Suspension and dismissal of such officers.

Every person so appointed shall be liable to be suspended or dismissed by the Local Government which appointed him.

Local Government may delegate its powers under section 7 to Customs Authority.

8. The Local Government may delegate to any Authority within its jurisdiction in the Department of Customs all or any of the powers vested in it by section 7.

Suspension and dismissal of subordinate officers.

Every subordinate officer who is appointed by virtue of such delegated power shall be liable to be suspended or dismissed by the Authority which appointed him.

Collector of District to perform duties of Customs Officer, where there is no separate Customs Officer.

9. At any place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the officers subordinate to him shall be deemed to be the proper officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

Power to appoint Ports and Wharves for shipment and landing.

10. The Local Government may from time to time, by notification in the official Gazette,

(*a*) declare the places which alone shall be Ports for the shipment and landing of goods;

(*b*) declare the limits of such Ports;

(*c*) appoint proper places therein to be Wharves for the landing and shipping of goods;

(*d*) declare the bounds and extent of any such Wharf;

(*e*) alter the name of any such Port or Wharf.

Every such Port, except Aden, shall be deemed to be a Customs Port within the meaning of this Act.

The Local Government may also from time to time in like manner declare what shall, for the purposes of this Act, be deemed to be the limits of the Custom House.

Power to declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.

11. The Governor General in Council may from time to time declare, by notification in the *Gazette of India*, that any Foreign Port in India shall, with such limitations and on such conditions (if any) as he thinks fit, be deemed a Customs Port for the purposes of sections 16, 126, and 182 to 140, inclusive, in so far as the said sections or any of them are capable of being applied to such Port; and may in like manner from time to time, by notification in the said Gazette, revoke or suspend the operation of any such declaration.

Power to declare Warehousing Ports and places.

12. The Local Government may from time to time declare, by notification in the official Gazette, that any Port or place subject to its administration shall be a Warehousing Port or place for the purposes of this Act;

Existing Ports to continue in use until otherwise declared.

and every Port which, at the passing of this Act, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the Local Government otherwise declares by notification in the official Gazette.

Approval, appointment, and licensing of warehouses.

13. In any Warehousing Port or place the Chief Customs Authority may from time to time appoint or license public Warehouses or places of security wherein dutiable goods may be deposited without payment of duty on the first entry thereof.

CHAPTER IV.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

Import Customs.

14. Duties of customs shall be levied on goods imported by sea into any Customs Port from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

15. Duties of customs shall be levied on goods exported by sea from any Customs Port to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

No duties on goods carried from one Indian Port to another not a Free Port.

16. No duties of customs shall be levied on goods carried by sea from any Customs Port to any other Customs Port:

Proviso as to opium, salt, and spirits.

Provided that nothing in this section shall apply to opium, salt or spirits;

or to goods brought from any Foreign Port or place to any Customs Port, and there transhipped for, or thence carried to, any other Customs Port without payment of duty;

or to goods removed in bond.

Power to exempt from Customs Duties.

17. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported or exported into or from British India, or into or from any specified port or place therein, from the whole or any part of the duties of customs to which they are liable under the law for the time being in force relating to such duties, and may, by like notification, cancel any such exemption.

Power to cancel exemption.

Power to authorize exemption from payment of duty.

The Local Government may authorize the Chief Customs Authority to exempt, by special order, from the payment of duty, under stated circumstances of an exceptional nature, any goods on which duties of Customs are directed to be levied by any law for the time being in force.

Baggage in actual use.

18. The Officer in charge of a Custom House may pass free of duty at his discretion any baggage in actual use, and for this purpose may determine, subject to such general rules as may from time to time be made under section 4, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Transhipment of Goods.

Power to permit transhipment with payment of duty.

19. In the Ports of Calcutta, Madras, Bombay, Karáchi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other British Indian Ports as the Governor General in Council may from time to time by notification in the *Gazette of India* direct in this behalf, the Chief Officer of Customs may (subject to the provisions contained in sections 20 and 21), on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamer into such port, grant leave to tranship the same without payment of duty at the port of transhipment, and without any security or bond for the due arrival and entry of the goods at the port of destination;

Proviso.

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other British Indian or foreign port.

Rules regulating exercise of power.

20. The power conferred by section 19 shall be exercised subject to such rules as the Local Government may from time to time prescribe by notification in the official Gazette.

Levy of transhipment fee.

21. A transhipment fee on each bale or package of any goods or class of goods transhipped under this Act, may be levied at such rates and under such regulations as the Local Government, with the previous sanction of the Governor General in Council, from time to time prescribes by notification in the official Gazette.

Power to prohibit transhipment.

22. The Governor General in Council may from time to time, by order notified in the *Gazette of India*, prohibit the transhipment, at any specified port or at all ports, of any specified class of goods, or prescribe any special mode of transhipping any specified class of goods, or may, by like notification, cancel such order.

Duty on opium re-exported by sea.

23. Opium imported by sea into any British Indian port may, if the Local Government think fit, but not otherwise, be re-exported by sea from the same port on payment of a duty equal in amount to the fee to which it would have been liable if it had been transhipped at such port.

CHAPTER V.

GENERAL PROVISIONS.

Prohibitions and restrictions.

24. The importation into or exportation from British India of the goods enumerated in the following clauses is prohibited:—

(*a*). Any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, has given to the Chief Customs Authority of the Presidency or place a notice in writing that such copyright subsists, and a statement of the date on which it will expire:

(*b*). Counterfeit coin:

(*c*). Any obscene book, pamphlet, paper, drawing, painting, representation, figure or article.

Importation without license of arms and ammunition prohibited.

25. The importation into British India of arms or ammunition, except under a license from the said Governor General in Council, or from some officer authorized in that behalf by the said Governor General in Council, is prohibited.

Proviso.

Nothing in the former part of this section shall apply to fowling pieces and sporting powder *bonâ fide* imported by any person in reasonable quantities for his own private use.

Governor General may prohibit or restrict importation or exportation of goods.

26. The Governor General in Council may from time to time, by notification in the *Gazette of India*, prohibit or restrict the importation or exportation by sea or by land, or both by sea and by land, of any particular class of goods.

Importation and exportation.

27. It shall be lawful to import into, or to export from, any place declared under section 10 to be a port for the shipment and landing of goods, any goods the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor General in Council for the time being in force.

Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.

28. On the importation into, or exportation from, any Port in British India of any goods not liable to duty, or liable to fixed duties according to weight or quantity only, or to duties on fixed Tariff valuations, the owner, consignee, importer, exporter or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief.

In case of doubt, the officer in charge of the Custom House may require any such person or any other person in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it is in his power to furnish.

And thereupon such person shall produce any such document or furnish any such information so required by such officer.

Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry;

5 *

Provided that, if the importer, owner or consignee, or his agent, makes a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an officer of Customs.

No re-valuation of goods assessed for duty on the declared value thereof shall be allowed after such goods have been removed from the Custom House.

Assessment of goods liable to duty according to value.

In all cases in which goods are liable to duty according to the value thereof, and in which no value has been fixed by law for the purpose of levying duties thereon, the value shall be assessed at the wholesale cash price, less trade-discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the duties payable on the importation thereof amount to.

Nothing in this section applies to opium, salt or spirits.

Under-valued goods how dealt with.

29. If, upon the examination of any goods chargeable with duty upon the value thereof, but for which a specific value is not fixed by law, for the purpose of levying duties thereon, it appears to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as stated in the bill of entry or shipping bill, such officer may detain such goods.

In every such case the detaining officer shall forthwith give notice in writing to the person entering the goods, of their detention and of the value thereof as estimated by him; and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which they were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall then cause them to be sold by public auction after due notice in the official Gazette.

If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall, at the discretion of the Chief Officer of Customs, be payable to the officer who detected the under-valuation of the goods.

Nothing in this section shall prevent the Chief Officer of Customs, when he has reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, on payment of such increased rate of duties, or on such other terms as he may determine.

Duties on goods retained under section 29 for use of Government.

30. When goods are retained under section 29 for the use of Government, the duties payable thereon shall in no case be levied from the person entering such goods.

Date of importation how to be determined.

31. If upon the first levying, repealing, enhancement or reduction of any duty,

or upon any change of any valuation for duty,

or upon the first permitting, prohibiting or restricting of any importation,

it becomes necessary to determine the exact date on which an importation of goods had effect,

such date shall be deemed to be that on which the goods were actually entered for home-consumption at the Custom House.

For the purpose of this section goods shall be deemed to be entered when the bill of entry thereof is delivered to the officer in charge of the Custom House.

Date of exportation how determined.

32. If, in like manner, it becomes necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

Contracts for sale of goods, duty on which is raised or lowered before performance.

33. When a contract is entered into for the sale of any dutiable goods at a fixed price including the duty leviable in British India at the date of the contract, and subsequently thereto, and before the contract is fully performed, the duty on such goods is raised or lowered, and levied accordingly, the amount to be paid to or received by the parties to the contract shall be increased or diminished, as the case may be, by the amount by which such duty is raised or lowered.

Illustrations.

(*a*.) A, a merchant in Calcutta, contracts with B, a merchant in Liverpool, to sell him 100 maunds of indigo at Rs. 200 per maund, including the export duty at the rate of 3 rupees per maund. Before the contract is fully performed the duty on indigo is reduced to 1 rupee per maund. B is entitled to deduct from the price agreed on Rs. 200, being Rs. 2 per maund.

(*b*.) A, a wine merchant in Bombay, contracts with B, a merchant in Bordeaux, for a thousand gallons of claret at Rs. 5 per gallon, including the import duty of 1 rupee per gallon. Subsequently, and before the contract is fully performed, the duty is raised to Rs. 2 per gallon levied at that rate, B is entitled to be paid at the rate of Rs. 6 per gallon.

Duty leviable on sea-borne goods, duty on which has been altered during transit.

34. When during the transit by sea to British India of any dutiable goods, the duty on such goods is raised, the duty leviable on such goods on arrival in British India shall be the duty which is in force in respect of such goods when such transit commenced, and when the duty on such goods is reduced, the duty leviable thereon shall be such reduced duty.

Re-imported articles of country produce to be deemed Foreign.

35. If goods produced or manufactured in British India be imported into any Customs Port from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the duties, conditions and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof:

Proviso.

Provided that, if such importation takes place within three years after the exportation of such goods, and it is proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority from time to time directs.

Goods for which any drawback of Excise has been received on exportation shall in all cases be treated as Foreign goods, unless the Chief Customs Authority in any case otherwise directs by special order.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

36. The Officer in charge of the Custom House, whenever he sees fit, may require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board-ship before landing or after shipment, and may levy duty according to the result of such weighing or measurement.

Customs Officer may open package and examine goods shipped.

37. Any Officer of Customs may open any package, and fully examine any goods brought by sea, or shipped or brought for shipment at any place in British India.

Stations for Customs Officers to board and clear ships.

38. The Chief Customs Authority may from time to time appoint, in any Customs Port, stations or places at which vessels arriving at or departing from such Port shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port small vessels, not brought into Port by Pilots, shall be required to anchor or moor.

The Chief Officer of Customs may at any time station Officers of Customs on board of any vessel while such vessel remains within the limits of the Port.

Power to depute Officer of Customs to board ships.

39. The Officer in charge of the Custom House at any Port in British India, may at any time depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port.

Every Officer of Customs so sent shall remain on board of such vessel by day and by night until it be otherwise ordered by the Officer in charge of the Custom House;

Proviso.

Provided that the Officer in charge of the Custom House may direct, whenever he sees fit so to do, and on such conditions as he sees fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

Master to be received with Officer.

Accommodation of Officer and servant.

40. Every Master of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

Officers of Customs to have free access to every part of the ship, and may seal and secure goods.

41. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and may fasten down any hatchway or entrance to the hold, and mark any goods before landing, and lock up, seal, mark, or otherwise secure any goods on board of such vessel.

Officer in charge of Custom House may authorize search and opening of locks.

If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

On production of such order, the officer bearing the same may require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, he may break the same open;

Goods not to be landed on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

42. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall on any Sunday or on any holiday or day on which the discharge of cargo is prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Customs Port or be shipped or waterborne for exportation or for carriage coastwise;

nor, except with such written permission, shall any goods be so discharged, shipped or water-borne on any day, except between such hours as the Chief Customs Authority from time to time appoints by notification in the official Gazette, nor without the presence or authority of an Officer of Customs;

nor in the case of goods so shipped or water-borne from any place in any such Port except a wharf duly appointed for such purpose;

nor without the presence of the proper Officer of Customs;

nor before due entry outwards of the exporting vessel and of the goods;

nor before such goods shall have been duly cleared for shipment.

CHAPTER VI.

IMPORTATION.

Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered.

43. The Local Government may, by notification in the official Gazette, fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass until the Master thereof has delivered to the Pilot, Officer of Customs or other person duly authorized to receive the same, a manifest signed by the Master containing a true specification of all goods imported in such vessel, with such particulars and made out in such form as is from time to time directed by the Chief Customs Authority.

If, in any River or Port wherein a place has been fixed by the Local Government under this section, the Master of any vessel arriving from any Foreign Port or place remains outside or below the place so fixed, such Master shall nevertheless, within twenty-four hours after the vessel anchors, deliver to the Pilot, Officer of Customs or other person authorized to receive the same, a manifest as provided in the same section.

Delivery of manifest when vessel anchors below reporting station.

44. In the case of a steamer the Master may enter in the manifest the name of the ship's agent as that of the consignee of any cargo, and the Chief Customs Authority may treat him as such consignee, provided he gives sufficient security to pay all claims for damage or short delivery which may be established by the owner of such cargo.

Power of Master of steamer to enter ship's agent as consignee.

45. The Pilot, Officer or other person so receiving the said manifest shall countersign the same and enter thereon such particulars as the said Chief Customs Authority from time to time directs in this behalf.

Duty of person receiving manifest.

46. No vessel arriving in any Customs Port from any Foreign Port or place, shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided; nor until a copy of such manifest, together with an application for entry inwards, has been presented to the Officer in charge of the Custom House, and order has been given thereon by such officer for the discharge of the cargo.

Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom House.

The Officer in charge of the Custom House may refuse to give such order, until any port-clearance, cocket, or other paper, which he knows or has reason to believe had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him.

Nothing in this section shall prevent an Officer in charge of a Custom House from granting, prior to receipt of the original manifest and prior to the entry of the vessel at the Custom House, a special pass, permitting bulk to be broken. The granting of such pass shall be subject to such rules as may from time to time be prescribed by the Chief Customs Authority.

47. The Master of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Customs Port, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as are put to him by such officer.

Master, if required, to deliver bill of lading, &c., to Officer in charge of Custom House.

48. No goods shall be allowed to leave any vessel, unless they be duly entered in the manifest of such vessel.

Goods not to leave ship unless entered in manifest.

49. Nothing contained in section 48 shall prevent any Officer in charge of a Custom House from permitting the Master of any vessel to amend any obvious error in the manifest, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary manifest.

Amendment of errors in manifest.

But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; and, if he decide to receive any such amended or supplementary manifest, he may levy thereon such fee as the Chief Customs Authority from time to time directs.

50. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House directs, shall be allowed for the landing of import cargo from such vessel.

Period to be allowed for landing import cargo.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such period of fifteen working days, or for the services of several such officers for respective periods the aggregate of which does not exceed fifteen working days.

If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

51. If the importer, owner or consignee of any goods (except such as have been declared by the Master as not to be landed), or the agent of such importer, owner or consignee does not land such goods within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same, as the Local Government from time to time appoints by notification in the official Gazette, or within such further period as the bill of lading of such vessel specifies, the Master of the vessel, or the Officers of Customs on his application, may then carry such goods to the Custom House.

Procedure in respect of goods not landed within time allowed.

The Officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and, if notice in writing has been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, he shall hold such goods until he shall have received notice in writing that the said charges are paid.

52. If any period earlier than the number of working days so appointed is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner or consignee of such cargo, or his agent does not land the same within such specified period, the Master of such vessel, or the Officers of Customs, on his application, may then carry such goods to the Custom House.

Effect of not discharging cargo in any earlier period specified in bill of lading.

The Officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and, if notice in writing has been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, he shall hold such goods until the said charges are paid.

53. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel.

Goods may be landed at any time after arrival, with consent.

If any package or parcel so carried to the Custom House remains unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master may give such notice as is provided in section 51, and the Officer in charge of the Custom House shall thereupon hold such package or parcel as provided in the said section.

54. If the duties chargeable upon any goods carried to the Custom House under the provisions of any of the three sections last preceding, together with the freight, primage, charges of landing and removal, rent and other charges to which such goods are liable, are not paid within four months from the date of entry of the vessel;

Procedure in case of non-payment of duties within four months after entry of vessel.

or if such goods are not duly warehoused within such period;

such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage and general average; next to the payment of duties; and then to the payment of other charges.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner.

Nothing in this section shall authorize the passing for home-consumption of any dutiable goods without payment of duties of Customs thereon, provided that such goods may be so passed where the importer, owner or consignee furnishes security, to the satisfaction of the officer in charge of the Custom House, for the payment of the duties to which such goods are liable.

55. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House directs, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of duties and other charges.

Goods not cleared within two months from date of landing, to be sold.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made:

Disposal of proceeds.

Provided also that where such goods are arms, ammunition or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India) and in such manner as the Local Government may from time to time direct.

Proviso.

56. All goods removed from on board of any vessel for the purpose of being landed and passed for importation, shall be forthwith landed at the wharf or other place appointed for the landing of such goods.

Goods removed from ship to be forthwith landed.

57. No goods discharged from any vessel under the authority of an Officer of Customs shall be landed except at the wharf or other place appointed for the landing of such goods.

Goods not to be landed elsewhere than at appointed wharf or place.

No goods discharged into any boat for the purpose of being landed shall, previously to their being landed, be transhipped into any other boat without the permisson of an Officer of Customs.

58. When any goods are sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent, with such boat-load or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof.

Boat-note.

Each boat-note shall be signed by an officer of the vessel, and likewise by the Officer of Customs on board, if any such officer be on board.

59. The importer, owner, or consignee of any dutiable goods intended to be delivered for home-consumption on the landing thereof from the importing ship, or the agent of such importer, owner or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may from time to time be directed by the Chief Customs Authority.

Entry for home-consumption.

The particulars of such entry shall correspond with the particulars given of the same goods and packages in the manifest of the ship.

60. No claim for any abatement or refund of duty, on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Customs Port, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House appoints for the purpose.

Claims to abatement of duty on account of damage how to be treated.

61. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the official Gazette, or some mercantile newspaper circulating in the place, be sold by public auction at such time (within thirty days from the date of entry), and at such place as the Officer in charge of the Custom House appoints.

Disposal of damaged goods and levy of duty thereon.

The duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account-sales, without any abatement or deduction, except of so much as represents the duties payable on the importation thereof.

On goods the value of which has been fixed by law for the purpose of levying duties thereon, no abatement of duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value.

No abatement of duty on account of damage shall be allowed on wines, spirits, or beer or on any other articles on which duties are levied on quantity and not on value.

62. All goods derelict, jetsam, flotsam, and wreck, brought or coming into any Customs Port shall at all times be subject to the same duties to which goods of the like kind are subject on importation at such Port, unless it be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted duty-free.

Goods derelict and wreck to be treated as foreign goods.

63. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty:

No duty on portion of import cargo intended for another Port, ship's stores, &c.

Provided that all such cargo and ship's stores shall be entered in the export manifest of the vessel as cargo or ship's stores not landed, and on which no duty has been paid.

Nothing in this section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

CHAPTER VII.

WAREHOUSING.

64. Any person who has imported any dutiable goods into any warehousing Port may deposit such goods, without payment of duty for the first entry thereof, in any public or private warehouse approved, appointed, or licensed under this Act.

65. Every public warehouse appointed under section 13 shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs.

Warehouse-keeper.

The warehouse-keeper shall, to the extent provided in sections 70 and 82 and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

66. The Chief Customs Authority, or such Officer of Customs as such Authority from time to time appoints in this behalf, may from time to time determine in what division of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods may be deposited without payment of duty on the first entry thereof.

Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.

A table of the rates of rent so fixed for every public warehouse shall be placed in a conspicuous part thereof.

Table of rates of rent.

67. At any warehousing Port or place, the Chief Officer of Customs may license private warehouses for the reception of dutiable goods under this Act without payment of duty on the first entry thereof.

Power to license private warehouses.

Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs.

Revocation of license.

68. Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the Form marked A hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority, and shall be signed by the applicant.

Form of application for license.

69. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the Form marked B hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority, and shall be signed by the applicant.

Form of application for admission of goods into warehouse.

70. No goods shall be warehoused unless they have been assessed for Customs duty in like manner as goods intended to be passed for home-consumption.

No goods to be warehoused without payment of duty, unless assessed for Customs duty.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the Custom House Officer who has assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in section 84.

Public warehouse-keeper or license-holder of private warehouse to be answerable for weight or gauge.

Nothing in this section shall interfere with the re-assessment for duty of warehoused goods on their clearance for home-consumption, should an alteration of any duty or of any valuation for duty render such re-assessment requisite with reference to the provisions of section 31.

Saving of re-assessment of warehoused goods on clearance for home-consumption.

71. When an application has been made for the warehousing of any goods under this Act, and when such goods have been assessed for duty as directed in section 70, the importer, owner, or consignee, or his agent shall execute a bond for the amount of such duty in the Form marked C hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority.

Bond under what circumstances to be taken. Form and conditions of bond.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

72. Every bond shall be for twice the amount of duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand, at such rate, not exceeding six per cent. per annum, as is fixed by the Chief Customs Authority.

Terms of bond to be executed.

Every person executing any such bond shall be bound thereby for the payment of all duties, interest, and charges claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

73. When any such bond has been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of import duty.

Period for which goods may remain warehoused under bond.

74. When the provisions of sections 69, 70, 71 and 72 have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited.

Procedure in respect of goods to be warehoused.

There shall be sent with the goods a pass in which the name of the importing vessel and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the Custom House wherein they are to be deposited, shall be specified.

On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed.

75. No package, butt, cask, or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission.

76. All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they have been imported, except as provided in section 81.

Goods how warehoused.

77. The Officer in charge of the Custom House may at any time issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he directs; and after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

Power to cause packages lodged in warehouse to be opened and examined.

When any goods have been so sealed and marked after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods are opened with the permission of such Officer, the packages shall, if it seems fit to such Officer, again be sealed or marked as before.

78. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act.

Access of customs officer to private warehouse.

79. Every bond executed for duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such duties and other demands of Customs after seven days have passed from the date on which the Officer in charge of the Custom House has given notice that the license for such warehouse is withdrawn.

When bond for duty on goods in private warehouse may be sued on.

80. Any importer, owner, or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs; and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House.

Access of owners to warehoused goods.

When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House finds it expedient to employ such special Officer.

81. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority from time to time prescribes, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing,

Goods in warehouse may be sorted, repacked, &c., by owner, &c.

(*a*) to sort, separate, pack, and repack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be repacked in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House permits);

(*b*) to fill up any casks of wine, spirits, or beer from any casks of the same secured in the same warehouse;

(*c*) to mix any wines of the same sort, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

(*d*) to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of duty, except as the same may eventually become payable on a deficiency of the original quantity;

and after such goods have been so separated and repacked in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.

82. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

Power to remit duties on warehoused goods lost or destroyed;

83. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, are lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority may remit the duties due thereon, or return them if paid:

Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction.

and if goods are damaged, duty to be levied on actual value.

If goods lodged in a warehouse receive damage through unavoidable accident, they shall be reassessed for duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Import duty to be on quantity or value registered at time of importation.

84. The import duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever:

Proviso as to wines, spirits, beer or salt.

Provided that, if it appear, at the time of clearing any wines, spirits, beer or salt from any warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the duties thereon, to an extent not exceeding the rates specified below, or in such table as may from time to time be prescribed in this behalf by the Local Government and notified in the official Gazette:

Rates of ullage or wastage in respect to Wines, Spirits, and Beer in cask.

For any time not exceeding	6 months	... 2½ per cent.
Exceeding 6 months and not exceeding	12 ,,	... 5 ,,
Exceeding 12 months and not exceeding	18 ,,	... 7½ ,,
Exceeding 18 months and not exceeding	2 years	... 10 ,,
Exceeding 2 years and not exceeding	3 ,,	... 12½ ,,

When Salt is warehoused in a Government Gola or Store-house under charge of a Government Officer, duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the duties on Salt warehoused in a private Gola or Store-house shall be prescribed from time to time by the Local Government and notified in the official Gazette.

Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.

85. When any Wines, Spirits, Beer or Salt lodged in a private warehouse are found to be deficient at the time of the delivery therefrom, and if such deficiency is proved to be due solely to ullage or wastage, the Chief Customs Authority may direct, in respect to any such article and for the purposes of this section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in section 84.

Goods not to be removed from warehouse, except after application to Officer in charge of Custom House.

86. No goods shall be removed from any warehouse, except after application to the Officer in charge of the Custom House for permission to pass the goods for exportation by sea to some Foreign Port or place;

or for home-consumption, in like manner as is prescribed by section 59 for goods entered for home-consumption on the landing thereof;

or for removal to another warehouse, as provided in sections 93, 94, 95 and 96.

Form of application for removal of goods.

87. Application to remove goods from any warehouse shall be made in the Form marked D hereto annexed, or in such other form as the Chief Customs Authority, from time to time prescribes.

Twenty-four hours' notice to be given.

Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

Immediate payment of duty on goods improperly taken out of warehouse.

88. If any goods are taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the duties due upon such goods.

Expenses of carriage, packing, &c., to be borne by owners.

89. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse shall, if paid by the Officer in charge of the Custom House or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the duties of Customs.

Payment of rent and warehouse dues.

90. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues.

If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House may, in liquidation of such demand (any transfer or assignment of the goods notwithstanding), cause to be sold by public auction after due notice in the official Gazette such sufficient portion of the goods as he may select.

In case of failure, goods may be sold, &c.

Out of the proceeds of such sale the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if any, to the importer, owner, or consignee:

Disposal of proceeds.

Provided that application for the same be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

On goods being removed otherwise than for export, &c., full duty to be paid.

91. If any goods warehoused as provided in this Act are removed or taken from the warehouse otherwise than for removal to another warehouse, as provided in sections 93, 94, 95 and 96, or for exportation by sea to some Foreign Port or place;

or if any goods have not been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse,

the Officer in charge of the Custom House shall thereupon demand the full amount of import duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

But if any goods so warehoused are before the expiration of the time last mentioned removed or taken from the warehouse for removal to another warehouse as provided in sections 93 to 96 inclusive, or for exportation by sea to some Foreign Port or place, no duty shall be chargeable.

Procedure on failure to pay duty or penalty.

92. If any importer, owner, or consignee fails to pay any duty or penalty that falls due on account of goods warehoused under this Act, the Officer in charge of the Custom House may either proceed upon the bond executed by such importer, owner, or consignee, or may detain such portion as to him seems fit of the warehoused goods on account of which the duty or penalty is demanded, to be detained in satisfaction thereof;

and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand, after due notice in the official Gazette.

The proceeds of any sale so made of goods so detained shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner or consignee of the goods:

Provided that application for the same be made within one year from the sale, or that good reason be shown why such application was not so made.

No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided, for any demand of Customs duties or penalty claimed thereon.

Power to remove goods from one warehouse to another.

93. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs, and on such conditions and after giving such security as the Chief Customs Authority directs, remove goods from one public or private warehouse to another warehouse in the same Port.

When any person desires so to remove any goods, he shall make application in the Form marked E hereto annexed, or in such other form as the Chief Customs Authority from time to time prescribes.

Bonded goods may be removed from one Port to another.

94. Goods warehoused under this Act at any warehousing Port may from time to time be removed by sea or by inland carriage, in order to be re-warehoused at any other warehousing Port.

When any person desires so to remove any goods, he shall apply to the Chief Officer of Customs, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority from time to time prescribes.

Procedure.

Officers at Port of removal to transmit account of goods to Officers at Port of destination.

95. When permission is granted for the removal of any goods from one warehousing Port or place to another, under section 94, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination;

Owner to execute bond for due arrival, &c.

and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination within such time as the Chief Customs Authority directs.

Such bond may be taken by the proper Officer either of the Port or place of removal, or of the Port or place of destination, as best suits the residence or convenience of the persons interested in such removal.

If such bond is taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods are produced to the proper Officer and duly re-warehoused at the Port or place of destination within the time allowed for such removal, or are otherwise accounted for to the satisfaction of such Officer; nor until the full duties due upon

any deficiency of such goods, not so accounted for, have been paid.

96. The Chief Customs Authority may permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount, and under such conditions as the Chief Customs Authority approves, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination within such time as the Chief Customs Authority directs.

Remover may enter into a general bond.

97. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

Goods on arrival at Port of destination to be subject to same laws as goods on first importation.

98. When any goods warehoused as provided in this Act are removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond.

Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the export-pass under which they have been taken away, if removed for exportation by sea, or of the import-pass or order if removed for home-consumption, and the amount of duty (if any) paid.

Removal of goods to be noted on the bond, with particulars.

99. A register shall be kept of all bonds entered into for Customs duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in section 98.

A register of bonds to be kept.

When the register shows that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home-consumption on the payment of duties, or owing to their re-exportation by sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods have been paid, the Officer in charge of the Custom House shall cancel such bond as discharged in full, and deliver it, so cancelled, to the person who has executed or who is authorized to receive it.

When bonds are to be cancelled and returned to obligors.

100. In no case shall the settlement of duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Duty on warehoused goods to be settled within three years.

101. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Warrant to be given every time goods are warehoused.

Such warrant shall be in the Form I hereto annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

Form of warrant.

102. All the provisions of this Act, relating to private warehouses, shall be applicable to the warehouses wherein the Bengal Bonded Warehouse Association receives bonded goods.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CHAPTER VIII.

TRANSHIPMENT.

103. When goods other than salt or opium are brought in any vessel to any Port in British India, and such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to any other British Indian or Foreign Port, and application is made for leave to tranship such goods, such transhipment shall be allowed without the payment of duty at the Port of transhipment, subject to such rules as may from time to time be prescribed by the Local Government:

When goods brought into one Indian Port, but intended for another Indian or Foreign Port, may be transhipped without payment of duty.

Provided that where the goods so transhipped are to be removed to some other Port in British India, the person requiring such transhipment shall enter into a bond, with such security as may be required of him, in a sum equal at least to the duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of transhipment directs.

Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of sections 94 and 95.

An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

104. A transhipment fee on each bale or package of goods transhipped under section 103 shall be levied at such rates and under such regulations as may from time to time be prescribed by the Local Government.

Levy of transhipment fee.

All such rates and regulations shall be published in the local official Gazette.

105. All goods transhipped under section 103 for removal to a Port in British India shall on their arrival at such Port be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof and under the laws and rules,

Entry and warehousing on arrival of goods transhipped under section 103.

in so far as such laws and rules can be made applicable which regulate the entry and warehousing of such last mentioned goods.

106. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of marine stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be transhipped from one such vessel to any other such vessel without payment of import duty.

Transhipment of stores from one vessel to another of the same owner without payment of duty.

CHAPTER IX.

EXPORTATION.

107. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application has been duly made to the Officer in charge of the Custom House by the Master of such vessel, or by his authorized agent; nor until an order has been given thereon by such Officer for such entry or shipment of cargo.

Permission for entry outwards to be obtained before export cargo is shipped.

Every application made under this section shall specify the name, tonnage, and nation of the vessel, the name of the Master, and the name of every place for which cargo is to be shipped.

108. A period of fifteen working days after the expiration of the period allowed for discharging import-cargo under section fifty, or such further period as the Officer in charge of the Custom House directs, shall be allowed for the shipment of export-cargo on board of every vessel not exceeding six hundred tons.

Period allowed for shipment of export-cargo.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such period of fifteen working days, or for the services of several such Officers for respective periods not exceeding in the aggregate fifteen working days.

If the period occupied in the shipment of export-cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import-cargo and before commencing the shipment of export-cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master.

Allowance for period during which vessel is laid up.

109. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent has filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the Form marked F hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority.

Exporter to deliver shipping bill before shipping any goods.

110. Before any warehoused goods or goods subject to duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Officer in charge of the Custom House directs, with one sufficient surety that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such Officer.

On entry outwards, bond to be given for shipping and landing.

111. When any goods are sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof.

Boat-note.

Each boat-note shall be signed by the proper Officer of Customs, and, if an Officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such Officer.

If no such Officer be on board, every such boat-note shall be delivered to the Master of the vessel, or to an Officer of the vessel appointed by him to receive it.

112. No vessel, whether laden, partially laden, or in ballast, shall depart from any Port in British India until a port-clearance has been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same.

No vessel to depart without a port-clearance.

Every application for port-clearance shall be made by the Master at least twenty-four hours before the intended departure of the vessel; and every Master of a vessel so applying for port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as are demanded of him.

A certificate of departure without port-clearance purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

113. No Pilot shall take charge of any vessel proceeding to sea, unless the Master of such vessel produces a port-clearance.

No Pilot to take charge of any vessel proceeding to sea without production of port-clearance

114. The Master of every vessel intending to leave any Port in British India shall, at the time of applying for port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority, containing a full and true specification of all goods to be exported in the vessel and signed by the Master;

Master on applying for port-clearance, to deliver manifest and certificates.

and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, requires.

The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the manifest, shall grant a port-clearance to the Master, and shall return at the same time to such Master one copy of the manifest duly countersigned by the proper Officer of Customs.

Nothing in this section shall prevent the Officer in charge of the Custom House from granting (subject to such rules as the Chief Customs Authority may from time to time prescribe) a port-clearance to the Master when the Ship's Agent furnishes sufficient security for duly delivering, within three days from the date of grant, the manifest and certificates aforesaid.

Port-clearance may be refused, unless all documents are delivered and charges paid.

115. The Officer in charge of the Custom House may refuse port-clearance to any vessel until the required manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master thereof, are duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House directs.

Additional charge on goods passed for shipment after port-clearance has been granted.

116. When goods are passed through the Custom House for shipment on an application presented after port-clearance has been granted, two per cent. upon the market-value of any such goods not liable to duty, or liable to specific duties according to weight or quantity only, or to duty according to value, and upon the tariff value of goods so passed which are liable to duties on fixed tariff valuations, shall in every case be levied, in addition to any duty to which such goods are ordinarily liable:

Nothing in this section shall apply to any shipment of Treasure or Opium.

Return of duty on goods not shipped or re-landed.

117. Upon an application being made to the Officer in charge of the Custom House, the duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose behalf such duty was paid:

Proviso.

Provided that no such refund shall be allowed unless application therefor has been made before the expiration of three clear working days after the vessel on which such goods were intended to be shipped, or from which they were re-landed, has left the Port.

Goods re-landed from a vessel returning to Port or putting into another Port.

118. If any vessel, after having cleared from any Customs Port shall, without having discharged her cargo, return to such Port, or put into any other Customs Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he desires to land the same or any portion thereof for re-export, may make application to the Officer in charge of the Custom House.

Such Officer, if he grant the application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board.

Goods on board of such vessel shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless such goods are lodged and remain under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export.

All charges attending such custody shall be borne by the exporter.

Vessel returning to Port may enter and land goods under Import-rules.

119. In either of the cases mentioned in section 118, the Master of the vessel, or any owner or shipper of cargo therein, may enter such vessel and land such cargo under the rules for the importation of goods.

In every such case the export duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty free on certain conditions.

120. Provisions and other such ship's stores warehoused at the time of importation may be exported without payment of duty for use and consumption on board of any vessel proceeding directly to a Foreign port or place, whether such port or place be or be not the port or place of ultimate destination.

Articles of Indian produce or manufacture including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House determines with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart:

Provided that no such rum shall be shipped as stores free of duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

CHAPTER X.

DRAWBACK.

Amount of drawback allowable on re-export.

121. Upon the re-export by sea to any Foreign Port or place of any goods, except Salt or Opium, capable of being easily identified, imported by Sea into British India from any Foreign Port or place, and upon which duties of Customs have been paid on importation, three-fourths of such duty shall be repaid as drawback:

Conditions for grant of drawback.

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority, on sufficient cause for such extension being shown, in any case determines.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article entered in the export manifest of the vessel as ship's stores.

Time to claim and demand payment of drawback.

122. No payment of drawback shall be made upon any goods re-exported from any port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment.

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea.

Drawback not allowed on goods of value less than amount claimed.

123. No drawback shall be allowed upon the exportation of any goods entered for drawback, which are of less value than the amount of the drawback claimed.

Drawback on exportation of spirit.

124. A drawback of the whole of the duties paid under Act No. XXIII of 1860 (*to amend Act XXI of 1856, to consolidate and amend the law relating to the Abkárí Revenue in the Presidency of Fort William in Bengal*), section one, on spirit manufactured at distilleries worked according to the English method and exported by sea in manner prescribed by Act No. XXI of 1856 (*to consolidate and amend the law relating to the Abkárí Revenue in the Presidency of Fort William in Bengal*) to any Foreign Port shall be allowed at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under the said Act No. XXIII of 1860, and that the spirit, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

No drawback on goods not entered in Export manifest.

125. No drawback shall be allowed upon goods not included in the Export manifest.

No drawback allowed except on goods exported out of India.

126. No drawback shall be allowed upon goods exported from one Customs Port to another.

But drawback may be allowed upon goods which, after having been charged with duty at one Customs Port and thence exported to another, are thence again re-exported by sea to a Foreign Port or place:

Proviso.

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

Declaration to be made by parties claiming drawback.

127. Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed and are not intended to be re-landed at any Customs Port; and that such person was at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Drawback of duties on wine allowed for Officers of the Navy.

128. A drawback of the whole of the duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine has been warehoused without payment of duty on the first entry thereof.

The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below; that is to say—

	Gals.
For every Admiral ...	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate ...	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate ...	210
Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon ...	105

Persons entering such wine for drawback to declare name and rank of Officer claiming same.

129. Every person clearing and claiming drawback for wine, as provided in section 128, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed.

All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship has certified the receipt of such wine into his charge, and the proper Officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine from one Naval Officer to another, &c.

130. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer on board of the same, or of any other such ship, as part of his authorized proportion;

or may permit the transhipment of any such Wine from one ship to another for the use of the same Naval Officer;

or the re-landing and warehousing of any such Wine for future re-shipment.

The Officer in charge of the Custom House may also receive back the duties for any such wine, and allow the same to be cleared for home-consumption.

Provisions and stores for Her Majesty's Navy exempt from duty.

131. Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of duty;

and where duties have been paid on such provisions and stores, drawback of such duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

CHAPTER XI.

COASTING TRADE.

Power to regulate carriage of goods coastwise.

132. The Governor General in Council, or the Local Government acting under the general instructions of the Governor General in Council, may from time to time determine, by rules to be published in the official Gazette, on what conditions goods may be carried in a coasting vessel, though shipped at a Foreign Port in India to be so carried; also in what cases goods may be shipped in a coasting vessel before all goods brought in such vessel from a Foreign Port or place have been unladen.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

133. The Master of every coasting vessel, which is square-rigged or propelled by steam, shall keep, or cause to be kept, a cargo-book stating the name of the Master, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound.

At every Port of lading such Master shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

At every Port of discharge of any such goods, such Master shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every Port of lading, and of arrival at every Port of discharge, shall in like manner be duly entered.

Every such Master shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein.

Power to prescribe rules for Masters of other coasting vessels.

134. The Governor General in Council or the Local Government may from time to time, by notification in the official Gazette, prescribe rules for the guidance of the Masters of all other coasting vessels, as to the matters mentioned in the last preceding section.

Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.

135. Before any coasting vessel departs from the Port of lading, an account, with a duplicate thereof, in the Form marked G hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority, shall be filled in and signed by the Master and delivered to the Officer in charge of the Custom House.

Such Officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein.

Power to refuse port-clearance in certain cases.

136. The Officer in charge of the Custom House may, for sufficient reason, refuse port-clearance to any vessel declared to be bound to any Port in British India, unless the owner, agent, Master gives a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a reasonable time to be prescribed in each case by the Officer requiring the bond.

Grant and revocation of general pass.

137. The Chief Customs Authority may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting steam-vessel at any Ports of despatch or destination, or at any intermediate Ports at which she touches for the purpose of receiving goods or passengers.

Any such general pass may be revoked by notice in writing under the hand of the proper Officer delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

Time for delivery of pass.

138. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery.

Goods on coasting vessel, if excisable, not to be unladen without permission.

139. If any of the goods on board of any coasting vessel be subject to any duty of Excise, they shall not be unladen without the permission of the proper Officer of Excise.

Power to board and examine any coasting vessel.

140. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel.

The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

CHAPTER XII.

CARGO BOATS.

Power to prohibit plying of unlicensed cargo-boats.

141. The Local Government may declare with regard to any Port, by notification in the official Gazette, that after a stated date no boat not duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port.

Issue of licenses.

142. The Chief Officer of Customs of any Port with regard to which a notification has been issued under section 141 may issue licenses for and make registration of cargo-boats, under such rules and on payment of such fees as the Local Government from time to time prescribes.

Every table of fees prescribed under this section shall be published in the [illegible] Gazette.

CHAPTER XIII.

SPIRITS.

Rules for removal of spirits from distillery without payment of duty, and for exportation thereof.

143. The Chief Customs Authority may from time to time prescribe the conditions on which and the rules under which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of duty of Excise.

The person so removing any such spirits shall execute to the Government a bond with one or more sureties, in the Form marked H hereto annexed, or in such other form as the said Chief Customs Authority from time to time prescribes, for the payment of duty on such portion of the said spirits as is not exported within four months from the date of the bond, and upon any portion which is exported to any other Port in British India not being a Customs Port, but proof of the landing whereof and of payment of duty of Customs thereon at the Port of destination is not furnished to the satisfaction of the proper Officer within six months from the date of the bond.

The Chief Officer of Customs of the Port of exportation may extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that duty has been paid.

Spirits for export to be taken direct from distillery to Custom House under pass.

144. Spirits for exportation under bond for the duty of Excise shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Officers of Excise.

Rules to be observed in exportation of spirits.

145. Spirits brought to the Custom House for exportation by sea shall, previous to shipment, be gauged and proved by an Officer of Customs.

Any drawback to be allowed for spirits on which duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

146. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom House, less an allowance for ullage and wastage at such rates as are from time to time prescribed by the Local Government and notified in the official Gazette.

Drawback of Excise duty on spirits manufactured after English method.

147. A drawback of duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of section 110, shall be allowed by the Officer in charge of the Custom House at the Port of exportation:

Provided that the exportation be made within one year from the date of payment of such duty of Excise, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Customs Ports, but such spirits may be exported under bond.

148. No drawback shall be allowed on spirits exported from any Customs Port in British India to any other Customs Port.

But it shall be lawful, on the conditions and under the rules from time to time prescribed under section 143, to export from any such Port to any other such Port, under bond for the duty of excise, spirits manufactured in British India after the English method.

Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at the rates from time to time prescribed by the Local Government and notified in the official Gazette.

Duty on spirits exported from one Indian Port to another, how to be adjusted.

149. Spirits manufactured in British India after the English method and exported under bond for the duty of Excise from any Port in British India to any other Port in British India not being a Customs Port, shall be chargeable at the Port of destination with duties of Customs at the ordinary rate fixed for duties on spirits of the like kind and strength imported into such Port.

Rum-shrub, &c., how to be charged with duty.

150. Rum-shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery shall be charged with duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer.

May be exported under same rules as spirits.

The provisions of this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor.

When any such liquor is removed for exportation without payment of duty of Excise, the bond to be executed by the person removing it shall be in the Form marked H hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Spirits intended for exportation may be removed for local consumption.

151. Spirits brought to the Custom House for exportation under bond for the duty of Excise may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise.

Credit for every such payment shall be given on settlement of the bond to which it relates.

Conditions of drawback and remission of duty on spirits.

152. No drawback shall be allowed for any spirits on which duty has been paid, nor shall the duty due on any spirits under bond be remitted, unless the spirits are shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export-cargo.

Re-land of spirits shipped.

Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise, in addition to the usual order of the Officer in charge of the Custom House.

153. The Local Government may from time to time prescribe rules for ascertaining and determining what spirit imported into British India shall be deemed to have been effectually and permanently rendered unfit for human consumption, so as to be subject only to an *ad valorem* duty of ten per cent. or other duty for the time being in force, and for causing such spirit, to be so rendered, if necessary, by their own officers, before the duty of customs leviable thereon is levied, and at the expense of the person importing it.

Power to make rules for ascertaining that imported spirit has been rendered unfit for human consumption.

Such rules, on being published in the local official Gazette, shall have the force of law.

154. In the absence of any such rules, or if any dispute arises as to their applicability, the Executive Officer of highest rank in the Department of Customs in the Port shall decide what spirit is subject only to the said *ad valorem* duty, and such decision shall be final.

Decision where no rules or their applicability disputed.

CHAPTER XIV.

CUSTOM-HOUSE AGENTS.

155. No person shall act in any Custom House as an agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House.

Agents must be duly authorized.

Such Officer may require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand rupees, for his faithful behaviour as regards the Custom House regulations and Officers.

Such Officer may, in case of misbehaviour, suspend or withdraw such authorization, but an appeal against every such suspension or withdrawal shall lie to the Chief Controlling Revenue Authority, whose decision thereon shall be final.

156. When any person makes application to any officer of Customs to transact any business on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business.

Agent to produce authority if required.

The clerk or servant or known agent of any person or of any mercantile firm may transact business at the Custom House, on account of such person or firm, if such person or a member of such firm identifies to the Officer in charge of the Custom House the person so empowered to transact his or their business, and deposits with such officer a written authority duly signed, empowering such officer to pay to such person all drawbacks, refunds and other monies for which he produces receipts.

CHAPTER XV.

DUPLICATE BILLS OF ENTRY.

157. Upon the entry or clearance of any goods for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or consignee, shall, if the Officer in charge of the Custom House so requires, deliver to such officer a duplicate of the bill of entry or shipping bill thereof.

Importer or exporter to deliver a duplicate of bill of entry or shipping bill, if required.

In such duplicate all sums and numbers may be expressed in figures.

CHAPTER XVI.

TAKING OF SAMPLES.

158. Any Officer in charge of a Custom House may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which duties are payable, or for any other necessary purpose.

Officer in charge of Custom House may take samples of goods.

Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to him as the Officer in charge of the Custom House directs.

CHAPTER XVII.

MISCELLANEOUS PROVISIONS.

159. The Governor General in Council may from time to time, by notification in the *Gazette of India*, fix for the purpose of levying duties, the value of any goods exported or imported by sea on which duties of Customs are thereby imposed.

Power to fix values of dutiable goods.

160. When duty or other Customs-dues or charges have been short-levied through inadvertence, error, or misconstruction on the part of the Officers of Customs,

Payment of duties short-levied or erroneously refunded.

or when duty, after having been levied, has been erroneously refunded,

the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment or making of the refund;

and the Officers of Customs may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

161. No duty or other Customs-dues or charges which have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

No refund of charges erroneously levied or paid, unless application be made within six months.

162. The unshipping, carrying, shipping and landing of all goods,

and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, housing,

Importer and exporter to pay expense incidental to compliance with Custom House rules.

marking and numbering of goods, where such operations are necessary or permitted.

and the removing of goods to, and the placing of them in, the proper place or deposit,

shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

163. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury occurring to such goods at any time while they remain or are lawfully detained in any Custom House, or on any Custom House wharf, or under charge any Officer of Customs, unless it be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

No compensation for loss or injury except on proof of wilful neglect.

164. The Chief Customs Authority may from time to time fix the rate to be charged on goods left on any Custom House wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Rates of wharfage fees.

165. A duplicate of any certificate, manifest, bill, or other Custom House document may, on payment of a fee of not less than one rupee and not more than ten rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended.

Duplicates may be granted and amendments made on payment of fee.

Such Officer may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

166. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

Customs Officers may be exempted from service on any jury or inquest.

CHAPTER XVIII.

OFFENCES AND PENALTIES.

167. If any goods, the importation or exportation of which is for the time being prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction;

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

or if any attempt be made so to import or export any such goods by the Port or otherwise;

or if any such goods be found in any package produced to any Officer of Customs as containing no such goods;

or if any such goods or any goods subject to a duty or restriction in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any Port in British India;

or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction;

such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees.

168. If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them;

Goods brought to be passed through Custom House liable to confiscation in case of discrepancy, misdescription, &c.

or that the contents thereof have been wrongly described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with duty, or are being imported or exported;

or that the contents of such packages have been wilfully mis-stated in regard to sort, quality, quantity or value;

or that goods not stated in the entry or application have been fraudulently concealed in, or mixed with, the articles specified therein, or have been packed to deceive the Officers of Customs;

such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

168*a*. Any person infringing any rule or order made under section 38 by the Chief Customs Authority, or by the Chief Officer of Customs, shall be liable to a penalty not exceeding five hundred rupees.

For infringing rules under section 38.

169. If, in any River or Port wherein a place has been fixed under section 43 by the Local Government, the Master of any vessel arriving from a Foreign Port or place wilfully omits, before passing beyond such place, to deliver to the Pilot, Officer of Customs, or other person duly authorised to receive the same, a manifest, signed by the Master, and in the form and containing the particulars indicated in the same section, in so far as they are applicable to his ship, cargo and voyage;

For proceeding inward beyond fixed place before delivery of manifest.

or if any manifest so delivered does not contain a true specification of all goods imported in such vessel;

such Master shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

170. Any Master remaining outside or below any such fixed place, and wilfully omitting, for the space of twenty-four hours after anchoring, to deliver this manifest, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For omitting to deliver manifest when vessel anchors below reporting station.

If, after any vessel arriving from any Foreign Port or place has entered any Customs Port, and in which a place has not been fixed under section 44, the Master of such vessel wilfully omits, for the

For like omission when reporting station has not been fixed.

space of twenty-four hours after anchoring, to deliver as required by that section his manifest to the Pilot, Officer of Customs or other person authorized to receive the same, such Master shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

171. Every Pilot, Officer of Customs or other person authorized to receive a manifest from any Master of a vessel, and refusing so to do, or failing to countersign the same or to enter the particulars referred to in section 43, shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

For Pilot, &c., not receiving manifest.

172. If any vessel arriving from any Foreign Port or place at any Customs Port shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of the Indian Ports Act, 1875, directly to some other place of mooring or unlading, the Master of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees, and the vessel shall not be allowed to enter until the penalty is paid.

For vessel removing from place of mooring, or unlading, without due authority.

173. The Master of any vessel arriving at any Port in British India from any Foreign Port or place who, when so required under section 38, fails to bring-to at any such station as has been appointed by the Chief Customs Authority for the boarding of vessels by an Officer of Customs, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For not bringing to at boarding station.

174. Every Master of a vessel refusing to receive on board an Officer of Customs deputed as provided in section 39, shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer is not received on board; and the vessel shall not be allowed to enter until the penalty is paid.

For refusing to receive Officer of Customs on board.

175. Any Master wilfully disobeying any direction contained in section 40 shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

For disobeying section 40.

176. Any Master of a vessel discharging or suffering to be discharged any goods not duly entered in the manifest of such vessel, shall be liable to a penalty not exceeding one thousand rupees.

For discharging goods not duly entered in manifest.

176*a*. Any goods found concealed in any place, box, or closed receptacle in any vessel, and not duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Goods found concealed liable to confiscation.

177. If any Master of a vessel refuses to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched when so required by an Officer of Customs bearing a written order to search;

For Masters resisting search, &c.

or if an Officer of Customs places any lock, mark, or seal upon any goods, and such lock, mark, or seal is wilfully opened, altered, or broken, before due delivery of such goods;

or if any such goods are secretly conveyed away;

or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, is opened without his permission—

in every such case the Master of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

178. If any bill of lading or copy required under section 47 is false; or has been altered with fraudulent intent;

For false entry, fraudulent alteration, &c.

or if the goods mentioned in any such bill of lading, or in any bill of lading of which a copy is so produced, have not been *bonâ fide* shipped on board of such vessel;

or if any such bill of lading delivered under the same section, or any bill of lading of which a copy is so delivered, by any such Master, has not been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped;

or if any part of the cargo has been staved, destroyed, or thrown overboard;

or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House;

in every such case the Master shall be liable to a penalty not exceeding one thousand rupees.

179. If any goods be found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Officer of Customs directs.

Goods not agreeing in description and quantity with entry in manifest liable to confiscation or extra duty.

180. If any goods entered in the manifest of a vessel are not found on board of the vessel; or if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the Officer in charge of the Custom House,

For not being able to account for missing or deficient package, &c.

the Master of such vessel shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value.

181. Any Master of a vessel causing or suffering any goods to be removed contrary to any of the provisions of section 42 shall be liable to a penalty not exceeding one thousand rupees; and all goods so removed shall be liable to confiscation.

For removing goods contrary to section 42.

182. If any goods removed from on board any vessel for the purpose of being landed and passed for importation, are not landed as provided in section 56,

For not landing goods in accordance with section 56.

or if the boat containing such goods be found out of the proper track between the vessel and such wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House,

such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation,

and the person by whose authority the goods are being landed, and the person in charge of the boat, shall be liable to a penalty not exceeding twice the amount of the duty leviable on the said goods.

183. Any goods landed or transhipped contrary to the provisions of section 57 shall be liable to confiscation.

For landing, &c., goods contrary to section 57.

184. If any goods sent to be landed be found without the boat-note required by section 58 in any boat proceeding to land, such goods shall be liable to confiscation; and the person by whose authority the goods are being landed, or the person in charge of the boat, shall be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.

For sending goods without boat-note.

185. If, without entry duly made, any goods are taken or passed out of any Custom House or wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred rupees.

For taking or passing goods without entry.

Any prohibited or dutiable goods found, either before or after landing, concealed in any passenger's baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

186. If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner or consignee, or his agent or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the revenue, such goods shall be liable to confiscation;

For removing goods after landing and before due entry.

or, if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of such duty if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand rupees for every missing or deficient package of unknown value.

187. If any goods entered to be warehoused under this Act are carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand rupees.

For improper carrying into warehouse.

188. If any goods entered to be warehoused under this Act are withheld, or removed from any proper place of examination, before they have been examined and certified by the proper officer, such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.

For withholding or removing before examination goods entered to be warehoused.

189. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or misdescription thereof tending to injure the revenue, be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or misdescription, unless it be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental.

For misdescription of goods.

If the quantity or value of any goods has been over-stated on importation, the error may be rectified at any time before the warehousing of the goods is completed.

190. If any warehoused goods be not warehoused in accordance with section 75,

For warehousing goods improperly.

or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in section 81;

For altering warehoused goods.

or if any such goods be removed from the warehouse in which they were originally deposited, except in presence or with the sanction of the proper officer, or under the proper authority for their delivery,

For removing them improperly.

such goods shall be liable to confiscation.

191. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty rupees.

For neglecting to stow goods properly in warehouse.

192. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, fails, on the requisition of any officer of Customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, he shall, for every such neglect, be liable, not only to pay the duties due on such goods, but also to a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient.

Or for neglecting to produce goods when required.

193. If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or, after being duly warehoused, are fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Goods entered to be warehoused, if not duly warehoused or if concealed or removed, liable to be confiscated.

194. If the person who has obtained a license for any private warehouse licensed under this Act does not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or, upon demand made by any such Officer at any time within the hours of business at the Port, refuses access to any such Officer, such person shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

For refusing to open private warehouse when duly required.

195. If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For importer or owner of warehoused goods clandestinely gaining access.

196. If any goods lodged in a private warehouse are found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.

For deficiencies in a private warehouse, if beyond ullage and wastage allowed.

197. If any goods lodged in a private warehouse are found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary duty thereon.

For excess, in private warehouse, over registered quantity.

When any penalty is incurred under this section or section 196, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

198. Whoever takes any goods out of any warehouse without payment of duty, or who aids, assists, or is concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For taking goods out of warehouse without paying duty.

If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such Officer, the Officer in charge of the Custom House shall, with the sanction of the Chief Customs Authority, make due compensation to such importer, owner, or consignee.

199. Whoever violates any rule prescribed under section 103 shall be liable to a penalty not exceeding one thousand rupees.

For infringing rules under section 103.

200. If any goods be taken on board of any vessel at any Port in British India before she has been entered outwards at such Port, in accordance with section 107, the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

For shipping goods before entry outwards.

201. If the Master of any vessel laid up under section 108 by the withdrawal of the Officer of Customs shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and, if not protected by a pass, shall be liable to confiscation.

For lading in absence of Customs Officer.

202. Whoever causes or suffers any goods to be shipped or water-borne to be shipped contrary to any of the provisions of section 109 shall, in every such case, be liable to a penalty not exceeding one thousand rupees; and any goods so shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

For causing goods to be shipped contrary to section 109.

203. Any Master or Officer refusing to receive any boat-note in accordance with section 111, or receiving the same and failing to deliver it when required so to do by any Officer of Customs authorized to make such requisition, shall be liable to a penalty not exceeding five hundred rupees.

For non-receipt or non-delivery of boat-note.

204. Any Master of a vessel who attempts to depart without a port-clearance, shall be liable to a penalty not exceeding five hundred rupees.

For departing without port-clearance.

If any vessel actually departs without a port-clearance, the Master shall be liable to a penalty not exceeding one thousand rupees;

and such penalty may be levied by the Chief Officer of Customs of any Customs Port to which such vessel proceeds, or in which she is, and in Aden by such Officer as the Governor of Bombay in Council appoints in this behalf.

205. Every Pilot convicted before a Magistrate of an infraction of the rule prescribed by section 118, shall be liable to a penalty not exceeding one thousand rupees.

On Pilot taking charge of vessel without port-clearance.

206. If any goods liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the manifest of any vessel, are not duly shipped before the departure of such vessel, or are not duly certified by the proper officer as short-shipped, such goods shall be liable to confiscation.

Certain goods if entered in manifest and not shipped, liable to confiscation.

If any goods not enumerated in such manifest are taken on board of any such vessel, the Master shall be liable to a penalty not exceeding fifty rupees in respect of every package of such goods.

For shipping goods not in manifest, &c.

If any goods duly shipped on board of any such vessel be landed at any place other than that for which they have been cleared, the Master of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

For landing at place other than that for which goods have been cleared.

207. If any vessel actually departs, after failing to bring-to when required at any station appointed under section 38, the penalty leviable under section 204 from the Master of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel proceeds, or in which she is, or in case of Aden by such officer as the Governor of Bombay in Council appoints in this behalf.

Levy of penalty for failure to bring-to when required under section 38.

A certificate of such failure to bring-to when required, purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

208. If any goods on account of which drawback has been paid be not found on board of any vessel referred to in section 119, the Master shall be liable to penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

For deficiency in goods on which drawback has been paid on board vessel returning to port or putting into another port.

209. All goods entered for drawback, which are of less value than the amount of the drawback claimed, shall be liable to confiscation.

Confiscation of goods entered for drawback, which are less in value than the amount.

210. If any goods on the entry of which for re-export drawback has been paid, are not duly exported to a Foreign Port or place, or are unshipped or re-landed at any Customs Port (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under section 118 or section 119) such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation;

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

and the Master of the vessel from which such goods are so unshipped or re-landed, and any person by whom or by whose orders or means such goods are so unshipped or re-landed, or who aids or is concerned in such unshipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.

211. Any wine referred to in section 129 not laden on board of the ship for which it was intended, or unladen from such ship without the permission of the proper Officer of Customs, shall be liable to confiscation.

Wine not laden, or unladen without permission, liable to confiscation.

212. If, in contravention of any rules made under section 132, any goods are taken into or put out of any coasting vessel;

For contravention of rules as to coasting trade.

or any coasting vessel touches at any Foreign Port or place, or deviates from her voyage, unless forced by unavoidable circumstances;

or if the Master of any coasting vessel which has touched at a Foreign Port or place fails to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel afterwards first arrives,

the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to pay double duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary duty which shall in every case be levied on such goods.

213. If upon examination, any package entered in the cargo-book required by section 133, as containing Foreign goods is found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package is found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation.

For breach of rules as to cargo-book.

If the Master of any vessel mentioned in section 133 fails correctly to keep, or to cause to be kept, a cargo-book, or to produce the same on demand;

or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered;

or if any goods entered as laden and not noted as delivered, be not on board,

the Master shall be liable to a penalty not exceeding five hundred rupees.

214. Any Master violating any rule made under section 134 shall be liable to a penalty not exceeding one hundred rupees.

For breach of rules under section 134.

215. If any account required by section 135 be false, the Master filling in or signing the same shall be liable to a penalty not exceeding five hundred rupees.

For signing false account.

216. On failure to produce the certificate mentioned in section 136, or to show sufficient reason for its non-production, the parties to the bond therein mentioned shall be bound to pay a penal sum equal to double the amount of Customs duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a Foreign Port.

For failure to produce certificate.

217. Any Master of a coasting vessel arriving at the port of discharge who fails, within twenty-four hours after arrival, to deliver a pass as required by section 138, shall be liable to a penalty not exceeding two hundred rupees.

For failure of Master of coasting vessel to deliver pass.

218. If, contrary to the provisions of this or any other Act relating to the Customs, any goods are laden on board of any vessel in any Port or place in British India and carried coastwise,

For breach in respect of lading, carrying coastwise, and unlading.

or any goods which have been brought coastwise are unladen in any such Port or place,

or any goods are found on board of any coasting vessel without being entered in the clearance thereof,

such goods shall be liable to confiscation, and the Master of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

219. The Master of any coasting vessel refusing to bring any document to the Officer in charge of the Custom House, when so required under section 140, shall be liable to a penalty not exceeding two hundred rupees.

For refusal to produce documents.

220. After the issue of a notification under section 141 with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation, and the owner or the person in charge of the boat shall be liable to a penalty not exceeding one hundred rupees.

Goods found in unlicensed cargo-boats may be confiscated.

221. Whoever wilfully contravenes any rule made under section 153 shall be liable to fine not exceeding five hundred rupees.

For contravening rules under section 153.

222. Whoever, not being authorized under section 155, acts as an agent for the transaction of business as therein mentioned, shall for every such offence be liable to a penalty not exceeding five hundred rupees.

For acting as agent without authority.

223. Whoever, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred rupees;

For irregularly re-landing spirituous liquors.

and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

224. Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter owner, or consignee, wilfully failing to comply with the provisions of section 157, shall be liable to a penalty not exceeding two hundred rupees.

For non-compliance with section 157.

225. Any goods put, without the authority of the Officers of Customs, on board of any tug-steamer or pilot-vessel from any sea-going vessel inward bound,

For Masters of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.

and any goods put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel,

and any goods on which drawback has been granted put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed,

shall be liable to confiscation, and the Master of such tug-steamer or pilot-vessel or sea-going vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

226. If any goods be landed or shipped,

For landing or shipping goods at unauthorized Port, &c.

or if an attempt be made to land or ship any goods,

or if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped

at any Port or place, which, at the date of such landing, shipment, attempt or bringing, has not been declared to be or does not exist as a Port for the landing and shipment of goods,

such goods shall be liable to confiscation, together with any ship, boat, carriage or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

227. Any person shipping or landing goods or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act;

For shipping, landing, concealing, &c., contrary to Act.

and any person found to have been on board of any vessel liable to confiscation under section 226 while such vessel is within any bay, river, creek, or arm of the sea which has not been declared to be, and is not existing as, a Port for the landing or shipment of goods,

shall be liable to a penalty not exceeding one thousand rupees.

228. All goods found on board any boat in excess of the boat-note or Custom-house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation.

Goods found in boat in excess of boat-note or pass liable to confiscation.

229. If any vessel which has been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the sea in British India, light or in ballast, and if the Master be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Vessels in Port with a cargo, and afterwards found in ballast and cargo unaccounted for, liable to confiscation.

230. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture.

Tackle, &c., included in confiscation of vessels.

The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof.

Packages and contents included in confiscation of goods.

Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Also conveyances and animals used in removal.

231. If any person in charge of or owning a vessel has become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse port-clearance to such vessel until the fine or penalty be discharged.

Goods may be detained and port-clearance refused, pending payment of fines incurred.

If any person passing goods through the Custom House has become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

232. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Persons reasonably suspected may be detained.

233. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs may be detained, in any place, either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

234. Every vessel and all goods seized on the ground that they are liable to confiscation shall, as soon as conveniently may be, be delivered into the care of the officer appointed to receive the same.

Vessels and goods seized how to be dealt with.

If there be no such officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure.

If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest office appointed by the Chief Customs Authority for the deposit of goods so seized.

235. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before a Magistrate or Officer in charge of a Custom House.

Persons detained to be taken to nearest Magistrate or Officer of Custom House.

236. When any person detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, is taken before a Magistrate, such Magistrate may, if he see reasonable cause, order him to be detained in gaol or in the custody of the Police for such time as is necessary to enable such Magistrate to communicate with the Officers of Customs:

Persons taken before a Magistrate for offence under Customs Acts may be detained or admitted to bail.

Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as such Magistrate appoints for his appearance.

237. If any person liable to be detained under this or any other Act relating to the Customs, is not detained at the time o committing the offence for which he so liable, or after detention, makes his escape, he shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Any person escaping may be afterwards detained.

238. When any person employed on the crew of any of Her Majesty's ships is detained under this or any other Act relating to the Customs, the detaining officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.

The Magistrate shall duly grant a warrant upon complaint made to him by the detaining officer, stating the offence for which the person is detained.

239. When any vessel or goods is or are seized or any person is detained under this or any other Act relating to the Customs, the Officer or other person making such seizure or detention, shall, on demand of the person in charge of the vessel or goods so seized or of the person so detained, give to such person a statement in writing of the reason for such seizure or detention.

When seizure is made, seizing officer to give reason in writing.

240. When any goods liable to confiscation under this or any other Act relating to the Customs are seized by any Police Officer on suspicion that they have been stolen, such Officer may carry such goods to any Police station or Court at which a complaint or information connected with the stealing or receiving of such goods has been made, or an enquiry connected with such stealing or receiving is in progress, and there detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting.

Procedure in respect of goods seized on suspicion.

In every such case the Police Officer seizing the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law.

If any Police Officer whose duty it is under this section to send a written notice or cause goods to be conveyed to a Custom House, neglects so to do, he shall be liable to a penalty not exceeding one hundred rupees.

For neglect of Police Officer to give notice.

241. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods; provided that he has reasonable ground to suppose that smuggled goods are contained therein.

Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

242. The Magistrate of a District or Division of a District may, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, issue a warrant to search for such goods.

Magistrate of District may issue search-warrant on application.

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure.

243. Any Officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in

Persons may be searched on reasonable suspicion.

any Port in British India, or any person who has landed from any vessel or boat:

Provided that such officer has reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

For possession of smuggled goods.

If any person on board of any such vessel or boat, or who has landed from any such vessel or boat, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, affirms that he has not, and if any such goods are, after such denial, discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Persons before search may require to be taken before a Magistrate, &c.

244. When any Officer of Customs is about to search any person under the provisions of section 243 such person may require the said officer to take him, previous to search, before the nearest Magistrate or Officer in charge of a Custom House.

If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or officer in charge of a Custom House.

The Magistrate or officer in charge of a Custom House before whom any person is so brought shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

For searching persons on insufficient grounds.

245. If any Officer of Customs requires any person to be searched for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred rupees.

Customs Officers, if guilty of breach of duty, how punishable.

246. If any Officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, he shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers committing or conniving at frauds, how punishable.

247. If any Officer of Customs, or other person duly employed for the prevention of smuggling, practises or attempts to practise any fraud for the purpose of injuring the Customs Revenue, or abets or connives at any such fraud or any attempt to practise any such fraud, he shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.

No suit or proceeding to be commenced without notice.

248. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving him a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof.

Punishment for obstruction to Customs Officers.

249. Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such officer or person, shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both.

For making false declaration, refusing to answer questions, &c.

250. Whoever knowingly makes or signs or uses any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular;

and whoever, counterfeits, falsifies, or fraudulently alters or destroys any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs;

and whoever being required under this or any other Act relating to the Customs to produce any document, refuses or neglects to produce such document;

and whoever, being required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs, does not truly answer such question,

shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.

For unauthorized declaration as to value of goods.

251. Whoever subscribes or attests any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee, be liable in every such case to a penalty not exceeding one thousand rupees.

Officer in charge of Custom House may adjudge confiscations and penalties.

252. In every case in which, under this Act, any vessel, cart, or other means of conveyance, or any horse or other animal, is liable to confiscation;

or any goods are liable to confiscation or to increased rates of duty;

or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty,

an officer in charge of a Custom House, or if there be no such officer at the place where the confiscation or penalty or increased rates is or are incurred, or such other officer as the Local Government from time to time appoints in this behalf, may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of duty.

Local Government may confer like powers on other officers of Customs.

253. In respect to cases cognizable under section 252 by an Officer in charge of a Custom House, the Local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of duty.

Proviso.

Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand rupees, nor, as regards an Assistant Collector or other subordinate officer, to goods of a greater value than one hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty rupees, nor, as regards an Assistant Collector or other subordinate officer, to a sum exceeding ten rupees.

On confiscation of vessel or goods, property to vest in Her Majesty.

254. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods, is adjudged under section 252 or section 253, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty.

The Officer adjudging confiscation shall take and hold possession of the same, and every officer of Police, on the requisition of such Officer, shall assist him in taking and holding such possession.

Appeal from subordinate to Chief Customs Authority.

255. In any case adjudicated by an Officer of Customs any party aggrieved by the award may, within three months from the date of the award, appeal to the Chief Customs Authority or in such cases as the Local Government directs to any other superior officer of Customs empowered in that behalf by the Local Government.

Such authority or superior officer may thereupon make such further enquiry and pass such order as he thinks proper, confirming, alterig, or annulling the original award:

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of duty than has been adjudged against him in the original award.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

256. The award of any confiscation, penalty, or increased rates of duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby is liable under any other law.

Offences not specially provided for how to be adjudicated.

257. All offences against this Act, other than those cognizable under section 252 by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.

258. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act by an Officer of Customs or by a Magistrate, the Chief Customs Authority is of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

How payment of penalty to be enforced.

259. When a penalty is adjudged against any person under this Act by any Officer of Customs, such Officer, if the penalty be not paid, may levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs.

When an Officer of Customs who has adjudged a penalty against any person under this Act fails to realize the unpaid amount of such penalty from the goods of such person, such officer may notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

260. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine:—

If the penalty or fine do not exceed fifty rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed five hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

The Magistrate may at any time enforce payment of any penalty or fine or of any portion thereof by distress and sale of the defaulter's goods.

Imprisonment to terminate upon recovery of fine.

261. The imprisonment imposed in default of payment of fine or penalty under this or any other Act relating to the Customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

Or upon recovery of proportional part of fine.

262. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty is paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

Option to pay fine in lieu of confiscation.

263. Whenever confiscation is authorized by this Act, the officer adjudging it may give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

Appropriation of penalties, &c., and grant of rewards.

264. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a general Fund, out of which the Chief Customs Authority may grant a reward to any person by whose information, assistance, or instrumentality, any seizure has been made or any offence punished.

SCHEDULE.

PART I.

ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Number and year.	Title.	Extent of repeal.
V of 1838 ...	Bengal Bonded Warehouse Association Act ...	Section twenty-eight.
XXI of 1856 ...	An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.	Section eight. Sections ten to sixteen, both inclusive.
VI of 1863 ...	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.	The whole.
XX of 1867 ...	An Act to authorize the transhipment, without payment of Duty, of goods imported into Calcutta, Madras and Bombay by steamers.	The whole.
X of 1868 ...	An Act to amend the Consolidated Customs Act ...	The whole.
XVII of 1869 ...	An Act to shorten the time for landing cargo ...	The whole.
XVII of 1870 ...	An Act to amend the law relating to Customs Duties.	Sections two, four and five, and the proviso in section three.
XVIII of 1870 ...	An Act to enable the Government of India to exempt goods from Customs Duties.	The whole.
XIV of 1871 ...	An Act for the further amendment of the Consolidated Customs Act.	The whole.
VI of 1873 ...	An Act to amend the law relating to the Transhipment of Goods imported by Steamer, and for other purposes.	The whole.
XVI of 1875 ...	An Act to amend the law relating to Customs Duties, and for other purposes.	Sections six, seven and twelve.

SCHEDULE.—(*continued*).

PART II.

FORMS.

A

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(*See section* 68).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to comply with my request to be furnished with a license under The Consolidated Customs Act, 1877, for a warehouse situated at and about the distance of from the Custom House.
The dimensions and other particulars of the godown are stated below. It is intended for the reception of all goods, as a general store-house (*or as the case may be*). The period of license not to exceed (*mention the time for which required*).

Particulars of godown.

	Feet. Inches.	
Length		Dry, airy, well flued and pakka-built; can contain with perfect safety and convenience tons of goods (*as the case may be.*)
Breadth		
Height		

This godown is my own property (*or the property of , from whom I have engaged the same on a lease of*)

(*Signed*) ( )

Name of Applicant.

Place
Date

B

FORM OF APPLICATION TO WAREHOUSE GOODS.

(*See section* 69).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to order the reception into the public warehouse (*or the private warehouse*) of Mr. *A. B.* situate at and licensed by No. dated , of the undermentioned goods arrived from (*Port or place to be mentioned*) on the (*British or other*) ship whereof is Master.

The Duty upon these goods has been adjusted in the manner specified below:—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs Duty.	Date and No. of importation.	Specification of the particulars of bonds if the Duty upon goods has been bonded.
1	2	3	4	5	6	7	8

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

C

FORM OF BOND FOR IMPORT DUTY.

(*See sections* 71 *and* 72).

BOND.

No. 18

We, *A. B.*,

now of

; and *C. D.*,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees to be paid to the said Secretary of State

for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(*Signed*)

The above bounden having applied to the Officer in charge of the Custom House at for and obtained permission to lodge in the warehouse for a period of the following good, that is to say— imported by Sea from on board of the ship and entered in the Custom House Books as No. of the Register of Goods imported by Sea;

The condition of this Bond is, that;

If the their heirs, or representatives, shall observe all the rules prescribed in The Consolidated Customs Act, 1877, to be observed by owners, importers, or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof;

And if the said their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the Port of all dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within

from the date of this Bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home-consumption or re-exportation by sea, the full amount of all Customs duties, warehouse dues, lawful charges and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals (*date*)

(*Signed*) ( )

D

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(*See section* 87).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to order to be passed from the public warehouse (*or private warehouse*) of Messrs. *A & Co.*, situate at and licensed under The Consolidated Customs Act, 1877, by No. dated , the undermentioned goods intended for exportation by Sea on the ship whereof is

Master and which is bound to (*or for internal consumption*), the same having been entered in the books of your office for the said warehouse, under No. dated by me (*or by Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods is herewith annexed).

Marks and No. of cases, *B. & Co.* (*Name of the goods*). Nos. 1 to 4. □ × ✓ Sealed. Warehoused for exportation.	Four cases of (*name of goods*) 1 case (*box, bale, or parcel*) containing (*here insert the quantity in each case*). 1 Ditto. 1 Ditto. 1 Ditto. Four cases (*boxes, bales or parcels*) containing (*total contents to be here stated*).

The Custom House value of the above is Government rupees

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

E

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(*See section* 93).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to permit the removal of the undermentioned goods from the public (*or private*) warehouse (*describe the warehouse*) to (*the warehouse into which the removal is intended to be made must here be distinctly described*) for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of The Consolidated Customs Act, 1877, in the books of the Warehousing Department, No. , dated for fifteen months (*or such other period as may have been allowed*) under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods.	Amount of value of goods as entered in Custom House Books.	Rate of Duty chargeable or paid upon the goods.	Name of the persons by whom goods first passed into warehouse.
1	2	3	4	5	6	7

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

F

FORM OF SHIPPING BILL.—(*See section* 109).

1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to duty.
5. Country goods not subject to duty.

Shipping Bill ... (*State, as described, the class to which the goods to be exported belong*).

Ship's name.	Whether British or Foreign; if Foreign, the country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of packages.	Quantity, quality, and description of goods.	Rate of value for Duty.	Total value for Duty.	Declared real value under section 28.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12

Here state particulars according to the above headings.

Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in Register of Custom House.

I claim drawback on ( )

Name of Officer in charge of Custom House.

I declare the value of the goods above described to be ( )

Name of Exporter or Agent.

Dated day of

G

FORM OF COASTING PASS—(*see section* 135.)

Port of

Ship's name.	Tonnage.	Port of Registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods, removed in bond.	Country goods.	Restricted goods and goods liable to duty of Excise.
1	2	3	4	5	6	7	8	9

(*Signed*) (*Name of Master.*)

Here state the particulars according to the above headings.

Cleared the day of 18 (*Signed*) (*Officer in charge of Custom House.*)

H

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See section* 143).

We,

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals, dated this day of 18

(*Signed*)

( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government rupees being the amount of duty payable at the rate of rupees per imperial gallon London proof, for gallons of (*or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed schedule*) manufactured at which the said have been allowed to remove thence for exportation by Sea, subject to the provisions of The Consolidated Customs' Act, 1877, without having paid such duty.

The condition of this obligation is, that, if the above bounden their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State duty at the rate of rupee per imperial gallon of proof spirits for all or any portion of the above-mentioned which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

Date

If the bond be for cordials and other liquors under section 150, *add—*

Schedule.

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1	2	3

I

FORM OF BONDED WAREHOUSE WARRANT.

(*See section* 101).

I do hereby certify that have deposited in the Warehouse of the undermentioned goods which goods, the engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

STATEMENT OF OBJECTS AND REASONS.

As long ago as 1870 the necessity of a thorough amendment of the Consolidated Customs Act (VI of 1863) was recognized, owing both to the additional legislation which had already taken place, and the numerous improvements which the various local authorities had represented to be necessary, chiefly in consequence of the altered conditions of trade.

Leave to introduce a Bill to consolidate and amend the law relating to Sea Customs was given by the Council of the Governor General for making Laws and Regulations to Sir Richard Temple on the 16th August 1870, but the measure was not proceeded with owing to difficulties connected with the application to India of 32 & 33 Vic., cap. II (for amending the law relating to the Coasting Trade and Merchant Shipping in British Possessions).

These difficulties appear, from further communication with Her Majesty's Secretary of State for India, to have been removed, and the Bill of 1870 is again brought forward, with the addition of the consolidation in it of the Acts specified in the margin, and of certain changes which have been recommended by the local authorities.

Act XIV of 1871.
Act VI of 1873.
Act XVI of 1875, in part.

Of those changes the chief are as follows:—

Provision is made (section 6) for the settlement of disputes as to the proper rate of duty payable in respect of any goods without detention of the goods during settlement.

Where a contract has been entered into for the sale of dutiable goods at a fixed price including the duty leviable at the date of the contract, and before the contract is fully performed the duty is raised or lowered, and levied accordingly, the Bill (section 38) declares that the price shall be increased or diminished (as the case may be) by the amount by which the duty is so raised or lowered. Where during transit by sea to British India the duty on any goods is raised, the duty payable on arrival will be only the duty in force when the transit commenced, and where such duty is lowered, the duty leviable will be only such reduced duty.

In the case of steamers the Bill provides (section 44) that the master may enter in the manifest the name of the ship's agent as that of the consignee of any cargo, and that the Chief Customs Authority may treat him as such consignee, provided he gives security against claims for damage or short delivery.

Power is given (section 46) to permit (subject to rules) bulk to be broken prior to receipt of the original manifest and the entry of the vessel at the Custom House.

For the purpose of landing import cargo and shipping export cargo no charge will be made (sections 50 and 108) for the services of several Customs Officers for respective periods, the aggregate of which does not exceed fifteen working days.

Power has been given (section 114) to grant port-clearance before delivery of the manifest when the ship's agent furnishes sufficient security for duly delivering it within three days from the date of the grant.

Whenever goods are confiscated the owner will have an option (section 263) to pay a fine in lieu of losing his goods.

It is expected that the Bill will be considerably improved in Committee in respect of numerous matters known to require attention, owing to the opening of the Suez Canal and the alterations effected by the telegraph in the conditions of modern trade, by suggestions of the various Maritime authorities, and by the co-operation of the mercantile community.

SIMLA;
The 26th October 1876.

T. C. HOPE.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 11, 1876.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The 30th October 1876.

(Second publication.)

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of the President, under the 22nd of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations:—

CONSOLIDATED CUSTOMS BILL, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title.
2. Repeal of enactments.
3. Interpretation.

CHAPTER II.

GENERAL RULES.

SECTION.

4. Making, issuing and publishing of rules.
5. Rules respecting passengers' baggage and mails.
   Fee for landing baggage.
6. Appeals how and by whom to be adjudicated.

CHAPTER III.

APPOINTMENT OF OFFICERS, PORTS, WHARVES AND WAREHOUSES.

7. Local Government to appoint necessary officers.
   Suspension and dismissal of such officers.
8. Local Government may delegate its powers under section 7 to Customs Authority.
   Suspension and dismissal of Subordinate Officers.
9. Collector of District to perform duties of Customs Officer, where there is no separate Customs Officer.
10. Power to appoint Ports and Wharves for shipment and landing.
11. Power to declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.
12. Power to declare Warehousing Ports and places.
    Existing Ports to continue in use until otherwise declared.
13. Approval, appointment and licensing of warehouses.

CHAPTER IV.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

SECTION.

14. Import Customs.
15. Export Customs.
16. No duties on goods carried from one Indian Port to another not a free Port.
    Proviso as to opium, salt and spirits.
17. Power to exempt from Customs duties.
    Power to cancel exemption.
    Power to authorize exemption from payment of duty.
18. Baggage in actual use.

Transhipment of goods.

19. Power to permit transhipment with payment of duty.
    Proviso.
20. Rules regulating exercise of power.
21. Levy of transhipment fee.
22. Power to prohibit transhipment.
23. Duty on Opium re-exported by Sea.

CHAPTER V.

GENERAL PROVISIONS.

24. Prohibitions and restrictions.
25. Importation without license of arms and ammunition prohibited.
    Proviso.
26. Power to prohibit or restrict importation or exportation of goods.
27. Importation and exportation.
28. Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.
    Assessment of goods liable to duty according to value.
29. Under-valued goods how dealt with.
30. Duties on goods retained under section 29 for use of Government.
31. Date of importation how determined.
32. Date of exportation how determined.
33. Contracts for sale of goods duty on which is raised or lowered before performance.
34. Duty leviable on sea-borne goods, duty on which has been altered during transit.
35. Re-imported articles of country produce to be deemed Foreign.
    Proviso.
36. Officer in charge of Custom House may require goods to be weighed or measured on board before landing.
37. Customs Officer may open package and examine goods shipped.
38. Stations for Customs Officers to board and also land from ship.
39. Power to depute Officer of Customs to board ships.
    Proviso.
40. Servant to be received with Officer.
    Accommodation of Officer and servant.
41. Officers of Customs to have free access to every part of the ship, and may seal and secure goods.
    Officer in charge of Custom House may authorize search and opening of locks.
42. Goods not to be landed on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

CHAPTER VI.

IMPORTATION.

43. Power to fix places beyond which inward bound vessels are not to proceed until manifest delivered.
    Delivery of manifest when vessel anchors below reporting station.
44. Power to Master of steamer to enter ship's agent as consignee.
45. Duty of person receiving manifest.
46. Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom House.
47. Master, if required, to deliver bill of lading, &c., to Officer in charge of Custom House.
48. Goods not to leave ship unless entered in manifest.
49. Amendment of errors in manifest.
50. Period to be allowed for landing import cargo.
    Consequence of exceeding same.
51. Procedure in respect of goods not landed within time allowed.
52. Effect of not discharging cargo in any earlier period specified in the bill of lading.
53. Goods may be landed at any time after arrival, with consent.
54. Procedure in case of non-payment of duties within four months after entry of vessel.
55. Goods not cleared within two months from date of landing to be sold.
    Disposal of proceeds.
    Proviso.
56. Goods removed from ship to be forthwith landed.
57. Goods not to be landed elsewhere than at appointed wharf or place.
58. Boat-note.
59. Entry for home-consumption.
60. Claims to abatement of duty on account of damage.
61. Disposal of damaged goods and levy of duty thereon.
62. Goods derelict and wreck to be treated as Foreign goods.
63. No duty on portion of import cargo intended for another Port, ship's stores, &c.

CHAPTER VII.

WAREHOUSING.

SECTION.

64. Deposit of goods in warehouse without payment of duty.
65. Warehouse-keeper.
    Responsibility of keeper.
66. Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.
    Table of rates of rent.
67. Power to license private warehouses.
    Revocation of license.
68. Form of application for license.
69. Form of application for admission of goods into warehouse.
70. No goods to be warehoused without payment of duty, unless assessed for Customs duty.
    Public warehouse-keeper, or license-holder of private warehouse, answerable for weight or gauge.
    Saving of re-assessment of warehoused goods on clearance for home-consumption.
71. Bond under what circumstances to be taken. Form and conditions of bond.
72. Terms of bond to be executed.
73. Period for which goods may remain warehoused under bond.
74. Procedure in respect of goods to be warehoused.
75. Packages, &c., to be marked and numbered before admission into warehouse.
76. Goods how warehoused.
77. Power to cause packages lodged in warehouse to be opened and examined.
78. Access of Customs Officer to private warehouse.
79. When bond for duty on goods in private warehouse may be sued on.
80. Access of owners to warehoused goods.
81. Goods in warehouse may be sorted, repacked, &c., by owner, &c.
82. Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.
83. Power to remit duties on warehoused goods lost or destroyed,
    and if goods are damaged, duty to be levied on actual value.
84. Import duty to be on quantity or value registered at time of importation.
    Proviso as to Wines, Spirits, Beer or Salt.
85. Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.
86. Goods not to be removed from warehouse, except after application to Officer in charge of Custom House.
87. Form of application for removal of goods.
    Twenty-four hours' notice to be given.
88. Immediate payment of duty on goods improperly taken out of warehouse.
89. Expenses of carriage, packing, &c., to be borne by owners.
90. Payment of rent and warehouse dues.
    In case of failure goods may be sold, &c.
    Disposal of proceeds.
91. On goods being removed otherwise than for export, &c., full duty to be paid.
92. Procedure on failure to pay duty.
93. Power to remove goods from one warehouse to another.
94. Bonded goods may be removed from one Port to another.
    Procedure.
95. Officers at Port of removal to transmit account of goods to Officers at Port of destination.
    Owner to execute bond for due arrival, &c.
96. Remover may enter into a general bond.
97. Goods on arrival at Port of destination to be subject to same laws as goods on first importation.
98. Removal of goods to be noted on the bond, with particulars.
99. Register of bonds to be kept.
    When bonds are to be cancelled and returned to obligee.
100. Duty on warehoused goods to be settled within three years.
101. Warrant to be given every time goods are warehoused.
    Form of warrant.
102. Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CHAPTER VIII.

TRANSHIPMENT.

103. When goods brought into one Indian Port, but intended for another Indian or Foreign Port, may be transhipped without payment of duty.
104. Levy of transhipment fee.
105. Entry and warehousing on arrival of goods transhipped under section 103.
106. Transhipment of stores from one vessel to another of same owner without payment of duty.

CHAPTER IX.

EXPORTATION.

107. Permission for entry outwards to be obtained before export cargo is shipped.
108. Period allowed for shipment of export cargo.
    Consequence of exceeding same.
    Allowance for period during which vessel is laid up.
109. Exporter to deliver shipping bill before shipping any goods.
110. On entry outwards, bond to be given for shipping and landing.
111. Boat-note.
112. No vessel to depart without a port-clearance.

SECTION.
113. No Pilot to take charge of any vessel proceeding to sea, without production of port-clearance.
114. Master on applying for port-clearance, to deliver manifest and certificates.
115. Port-clearance may be refused unless all documents are delivered and charges paid.
116. Additional charge on goods passed for shipment after port-clearance has been granted.
117. Return of duty on goods not shipped or relanded.
Proviso.
118. Goods re-landed from a vessel returning to Port, or putting into another Port.
119. Vessel returning to Port may enter and land goods under Import rules.
120. Provisions, stores, &c., for consumption on vessels proceeding to Foreign ports may be exported duty-free on certain conditions.

CHAPTER X.

DRAWBACK.

121. Amount of drawback allowable on re-export.
Conditions for grant of drawback.
122. Time to claim and demand payment of drawback.
123. Drawback not allowed on goods of value less than amount claimed.
124. Drawback on exportation of spirit.
125. No drawback on goods not entered in Export manifest.
126. No drawback allowed except on goods exported out of India.
Proviso.
127. Declaration to be made by parties claiming drawback.
128. Drawback of duties on wine allowed for Officers of Navy.
129. Persons entering such wine for drawback to declare name and rank of Officer claiming same.
130. Transfer of wine from one Naval Officer to another, &c.
131. Provisions and stores for Her Majesty's Navy exempt from duty.

CHAPTER XI.

COASTING TRADE.

132. Power to regulate carriage of goods coastwise.
133. Rules respecting cargo-book to be kept by Masters of coasting vessels.
134. Power to prescribe rules for Masters of other coasting vessels.
135. Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.
136. Power to require bond before port-clearance is granted.
137. Grant and revocation of general pass.
138. Time for delivery of pass.
139. Goods on coasting vessel, if excisable, not to be unladen without permission.
140. Power to board and examine any coasting vessel.

CHAPTER XII.

CARGO BOATS.

141. Power to prohibit plying of unlicensed cargo boats.
142. Issue of licenses.

CHAPTER XIII.

SPIRITS.

143. Rules for removal of spirits from distillery without payment of duty, and for exportation thereof.
144. Spirits for export to be taken direct from distillery to Custom House under pass.
145. Rules to be observed in exportation of spirits.
146. Duty to be recovered on any deficiency in spirits under bond.
147. Drawback of Excise duty on spirits manufactured after English method.
148. No drawback allowed on spirits exported to Indian Ports not being Customs Ports, but such spirits may be exported under bond.
149. Duty on spirits exported from one Indian Port to another how to be adjusted.
150. Rum-shrub, &c., how to be charged with duty.
May be exported under same rules as spirits.
151. Spirits intended for exportation may be removed for local consumption.
152. Conditions of drawback and remission of duty on spirits.
Re-land of spirits shipped.
153. Power to make rules for ascertaining that imported spirit has been rendered unfit for human consumption.
154. Decision where no rules or their applicability disputed.

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CUSTOM-HOUSE AGENTS.

155. Agents must be duly authorized.
156. Agent to produce authority if required.

CHAPTER XV.

DUPLICATE BILLS OF ENTRY.

157. Importer or exporter to deliver duplicate of bill of entry, or shipping bill, if required.

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SECTION.
158. Officer in charge of Custom House may take samples of goods.

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MISCELLANEOUS PROVISIONS.

159. Power to fix values of dutiable goods.
160. Payment of duties short levied or erroneously refunded.
161. No refund of charges erroneously levied or paid, unless application made within six months.
162. Importer and exporter to pay expense incidental to compliance with Custom House rules.
163. No compensation for loss or injury except on proof of wilful neglect.
164. Rates of wharfage fees.
165. Duplicates may be granted and amendments made on payment of fee.
166. Customs Officers may be exempted from service on any jury or inquest.

CHAPTER XVIII.

OFFENCES AND PENALTIES.

167. Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.
168. Goods brought to be passed through Custom House liable to confiscation in case of discrepancy, misdescription, &c.
168a. For infringing rules under section 38.
169. For proceeding inward beyond fixed place before delivery of manifest.
170. For omitting to deliver manifest when vessel anchors below reporting station.
For like omission when reporting station has not been fixed.
171. For Pilot, &c., not receiving manifest.
172. For vessel removing from place of mooring, or unlading, without due authority.
173. For not bringing to at boarding station.
174. For refusing to receive Officer of Customs on board.
175. For disobeying section 40.
176. For discharging goods not duly entered in manifest.
176a. Goods found concealed liable to confiscation.
177. For Masters resisting search, &c.
178. For false entry, fraudulent alteration, &c.
179. Goods not agreeing in description and quantity with entry in manifest liable to confiscation or extra duty.
180. For not being able to account for missing or deficient package, &c.
181. For removing goods contrary to section 43.
182. For not landing goods in accordance with section 56.
183. For landing, &c., goods contrary to section 57.
184. For sending goods without boat-note.
185. For taking or passing goods without entry.
186. For removing goods after landing and before due entry.
187. For improper carrying into warehouse.
188. For withholding or removing before examination goods entered to be warehoused.
189. For misdescription of goods.
190. For warehousing goods improperly.
For altering warehoused goods.
For removing them improperly.
191. For neglecting to stow goods properly in warehouse.
192. Or for neglecting to produce goods when required.
193. Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.
194. For refusing to open private warehouse when duly required.
195. For importer or owner of warehoused goods clandestinely gaining access.
196. For deficiencies in a private warehouse if beyond ullage and wastage allowed.
197. For excess, in private warehouse, over registered quantity.
198. For taking goods out of warehouse without paying duty.
199. For infringing rules under section 103.
200. For shipping goods before entry outwards.
201. For lading in absence of Customs Officer.
202. For causing goods to be shipped contrary to section 109.
203. For non-receipt or non-delivery of boat-note.
204. For departing without port-clearance.
205. On Pilot taking charge of vessel without port-clearance.
206. Certain goods if entered in manifest and not shipped liable to confiscation.
For shipping goods not in manifest, &c.
For landing at place other than that for which goods have been cleared.
207. Levy of penalty for failure to bring to when required under section 42.
208. For deficiency in goods on which drawback has been paid on board vessel returning to Port, or putting into another Port.
209. Confiscation of goods entered for drawback, which are less in value than the amount.
210. Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.
211. Wine not laden, or unladen without permission, liable to confiscation.
212. For contravention of rules as to coasting trade.
213. For breach of rules as to cargo-book.
214. For breach of rules under section 134.
215. For signing false account.

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216. For failure to produce certificate.
217. For failure of Master of coasting vessel to deliver pass.
218. For breach in respect of lading, carrying coastwise, and unlading.
219. For refusal to produce documents.
220. Goods found in unlicensed cargo-boats may be confiscated.
221. For contravening rules under section 153.
222. For acting as agent without authority.
223. For irregularly re-landing spirituous liquors.
224. For non-compliance with section 157.
225. For Masters of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.
226. For landing or shipping goods at unauthorized Port, &c.
227. For shipping, landing, concealing, &c., contrary to Act.
228. Goods found in boat in excess of boat-note or pass liable to confiscation.
229. Vessels in Port with a cargo, and afterwards found in ballast and cargo unaccounted for, liable to confiscation.
230. Tackle, &c., included in confiscation of vessels.
Packages and contents included in confiscation of goods.
Also conveyances and animals used in removal.
231. Goods may be detained and port-clearance refused, pending payment of fines incurred.
232. Persons reasonably suspected may be detained.
233. Vessels, goods and persons may be seized or detained.
234. Vessels and goods seized how to be dealt with.
235. Persons detained to be taken to nearest Magistrate or Officer of Custom House.
236. Persons taken before a Magistrate for offence under Customs Acts may be detained or admitted to bail.
237. Any person escaping may be afterwards detained.
238. Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.
239. When seizure is made, seizing officer to give reason in writing.
240. Procedure in respect of goods seized on suspicion.
For neglect of Police Officer to give notice.
241. Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.
242. Magistrate of District may issue search-warrant on application.
243. Persons may be searched on reasonable suspicion.
For possession of smuggled goods.
244. Persons before search may require to be taken before a Magistrate, &c.

SECTION.

245. For searching persons on insufficient grounds.
246. Customs Officers, if guilty of breach of duty, how punishable.
247. Customs Officers committing or conniving at frauds how punishable.
248. No suit or proceeding to be commenced without notice.
249. Punishment for obstruction to Customs Officers.
250. For making false declaration, refusing to answer questions, &c.
251. For unauthorized declaration as to value of goods.
252. Officer in charge of Custom House may adjudge confiscations and penalties.
253. Local Government may confer like powers on other Officers of Customs.
Proviso.
254. On confiscation of vessel or goods, property to vest in Her Majesty.
255. Appeal from Subordinate to Chief Customs Authority.
256. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.
257. Offences not specially provided for how to be adjudicated.
258. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.
259. How payment of penalty to be enforced.
260. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
261. Imprisonment to terminate upon recovery of fine.
262. Or upon recovery of proportional part of fine.
263. Option to pay fine in lieu of confiscation.
264. Appropriation of penalties, &c., and grant of rewards.

SCHEDULE.

PART I.—ACTS REPEALED.

PART II.—FORMS.

A. Form of Application for a license for private Warehouse.
B. Form of Application to warehouse goods.
C. Form of Bond for Import Duty.
D. Form of Application to remove goods from Warehouse.
E. Form of Application to remove goods from one Warehouse to another.
F. Form of Shipping Bill.
G. Form of Coasting Pass.
H. Form of Bond for the removal of Spirits from licensed Distillery.
I. Form of Bonded Warehouse Warrant.

A Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Whereas it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Consolidated Customs Act, 1877."

Short title.

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein, except as to any act done, offence committed, or liability incurred.

Repeal of enactments.

All references to any of the said Acts in Acts passed subsequently thereto shall be read as if made to the corresponding provisions of this Act.

All notifications made, public warehouses appointed, and licenses issued under Act No. VI of 1863 and now in force, shall be deemed to be, respectively, made, appointed and issued under this Act.

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

Interpretation.

(*a*). The words "Chief Customs Authority" denote the persons authorized to exercise, under any Local Government, the chief control in the Department of Customs in any place to which this Act applies:

"Chief Customs Authority."

(*b*). The words "Chief Officer of Customs" denote the Executive Officer of highest rank in the Department of Customs in any Port to which this Act applies:

"Chief Officer of Customs."

(*c*). The words "Officer in charge of the Custom House" include every officer of customs for the time being in separate charge of a Custom House:

"Officer in charge of the Custom House."

(*d*). The word "Magistrate" includes every officer exercising any of the powers of a Magistrate, and, in the Towns of Calcutta, Madras and Bombay, a Presidency Magistrate:

"Magistrate."

(*e*). The words "Customs Port" denote any Port at which duties of customs are leviable:

"Customs Port."

(*f*). The words "Foreign Port" include Aden and any Port not situated in British India:

"Foreign Port."

(*g*). The words "Foreign Goods" include all goods not produced or manufactured in British India:

"Foreign Goods."

(*h*). The word "Vessel" includes anything made for the conveyance by water of human beings or property:

"Vessel."

(*i*). The words "Coasting Vessel" denote any vessel proceeding from one Customs Port to another Customs Port:

"Coasting Vessel."

(*j*). The word "Master" includes every person, except a Pilot, having command or charge of any vessel:

"Master."

(*k*). The word "Warehouse" denotes any place approved, appointed, or licensed under this Act for the keeping and securing of goods entered to be warehoused without payment of duty on the first entry thereof.

"Warehouse."

CHAPTER II.

GENERAL RULES.

4. The Chief Customs Authority may, with the sanction of the Local Government, make and issue rules for regulating the practice and proceedings of officers in the Department of Sea Customs, and may from time to time add to, alter, or revoke such rules or any of them:

Making, issuing, and publishing of rules.

provided that no rule so made shall be inconsistent with this Act or any other law for the time being in force.

All rules made under this section shall be published in the local official Gazette.

5. Any rules made under section 4 may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House, and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels.

Rules respecting passengers' baggage and mails.

When any baggage or parcels are made over to an officer of Customs for the purpose of being landed, a fee of such amount as the Local Government from time to time directs shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

Fee for landing baggage.

6. If any dispute arises between any officer of Customs and any Master of a vessel, or importer, exporter, owner or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating

to the importation, exportation, or warehousing of any goods,

or to the proper rate of duty payable in respect thereof,

or to the levy of any duty or penalty thereon,

or to any seizure or forfeiture thereof,

the Chief Customs Authority, or such officer of Customs as the said Authority from time to time appoints in this behalf, shall settle such dispute, subject to an appeal to the Local Government, acting under the general instructions of the Governor General in Council.

Appeals how and by whom to be adjudicated.

Where the dispute relates to the proper rate of duty in respect of any goods, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation, respectively, the amount of duty demanded by such officer, pending the decision of the Chief Customs Authority.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner or consignee, or his agent.

CHAPTER III.

APPOINTMENT OF OFFICERS, PORTS, WHARVES AND WAREHOUSES.

Local Government to appoint necessary officers.

7. The Local Government of every place in which duties of Sea Customs are levied, shall appoint such persons as it thinks proper to exercise the powers conferred, and to perform the duties imposed, by this Act.

Suspension and dismissal of such officers.

Every person so appointed shall be liable to be suspended or dismissed by the Local Government which appointed him.

Local Government may delegate its powers under section 7 to Customs Authority.

8. The Local Government may delegate to any Authority within its jurisdiction in the Department of Customs all or any of the powers vested in it by section 7.

Suspension and dismissal of subordinate officers.

Every subordinate officer who is appointed by virtue of such delegated power shall be liable to be suspended or dismissed by the Authority which appointed him.

Collector of District to perform duties of Customs Officer, where there is no separate Customs Officer.

9. At any place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the officers subordinate to him shall be deemed to be the proper officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

Power to appoint Ports and Wharves for shipment and landing.

10. The Local Government may from time to time, by notification in the official Gazette,

(*a*) declare the places which alone shall be Ports for the shipment and landing of goods;

(*b*) declare the limits of such Ports;

(*c*) appoint proper places therein to be Wharves for the landing and shipping of goods;

(*d*) declare the bounds and extent of any such Wharf;

(*e*) alter the name of any such Port or Wharf.

Every such Port, except Aden, shall be deemed to be a Customs Port within the meaning of this Act.

The Local Government may also from time to time in like manner declare what shall, for the purposes of this Act, be deemed to be the limits of the Custom House.

Power to declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.

11. The Governor General in Council may from time to time declare, by notification in the *Gazette of India*, that any Foreign Port in India shall, with such limitations and on such conditions (if any) as he thinks fit, be deemed a Customs Port for the purposes of sections 16, 126, and 132 to 140, inclusive, in so far as the said sections or any of them are capable of being applied to such Port; and may in like manner from time to time, by notification in the said Gazette, revoke or suspend the operation of any such declaration.

Power to declare Warehousing Ports and places.

12. The Local Government may from time to time declare, by notification in the official Gazette, that any Port or place subject to its administration shall be a Warehousing Port or place for the purposes of this Act;

Existing Ports to continue in use until otherwise declared.

and every Port which, at the passing of this Act, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the Local Government otherwise declares by notification in the official Gazette.

Approval, appointment, and licensing of warehouses.

13. In any Warehousing Port or place the Chief Customs Authority may from time to time appoint or license public Warehouses or places of security wherein dutiable goods may be deposited without payment of duty on the first entry thereof.

CHAPTER IV.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

Import Customs.

14. Duties of customs shall be levied on goods imported by sea into any Customs Port from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

15. Duties of customs shall be levied on goods exported by sea from any Customs Port to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

No duties on goods carried from one Indian Port to another not a Free Port.

16. No duties of customs shall be levied on goods carried by sea from any Customs Port to any other Customs Port:

Proviso as to opium, salt, and spirits.

Provided that nothing in this section shall apply to opium, salt or spirits;

or to goods brought from any Foreign Port or place to any Customs Port, and there transhipped for, or thence carried to, any other Customs Port without payment of duty;

or to goods removed in bond.

Power to exempt from Customs Duties.

17. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported or exported into or from British India, or into or from any specified port or place therein, from the whole or any part of the duties of customs to which they are liable under the law for the time being in force relating to such duties,

Power to cancel exemption.

and may, by like notification, cancel any such exemption.

Power to authorize exemption from payment of duty.

The Local Government may authorize the Chief Customs Authority to exempt, by special order, from the payment of duty, under stated circumstances of an exceptional nature, any goods on which duties of Customs are directed to be levied by any law for the time being in force.

Baggage in actual use.

18. The Officer in charge of a Custom House may pass free of duty at his discretion any baggage in actual use, and for this purpose may determine, subject to such general rules as may from time to time be made under section 4, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Transhipment of Goods.

Power to permit transhipment with payment of duty.

19. In the Ports of Calcutta, Madras, Bombay, Karáchi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other British Indian Ports as the Governor General in Council may from time to time by notification in the *Gazette of India* direct in this behalf, the Chief Officer of Customs may (subject to the provisions contained in sections 20 and 21), on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamer into such port, grant leave to tranship the same without payment of duty at the port of transhipment, and without any security or bond for the due arrival and entry of the goods at the port of destination:

Proviso.

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other British Indian or foreign port.

Rules regulating exercise of power.

20. The power conferred by section 19 shall be exercised subject to such rules as the Local Government may from time to time prescribe by notification in the official Gazette.

Levy of transhipment fee.

21. A transhipment fee on each bale or package of any goods or class of goods transhipped under this Act, may be levied at such rates and under such regulations as the Local Government, with the previous sanction of the Governor General in Council, from time to time prescribes by notification in the official Gazette.

Power to prohibit transhipment.

22. The Governor General in Council may from time to time, by order notified in the *Gazette of India*, prohibit the transhipment, at any specified port or at all ports, of any specified class of goods, or prescribe any special mode of transhipping any specified class of goods, and may, by like notification, cancel such order.

Duty on opium re-exported by sea.

23. Opium imported by sea into any British Indian port may, if the Local Government think fit, but not otherwise, be re-exported by sea from the same port on payment of a duty equal in amount to the fee to which it would have been liable if it had been transhipped at such port.

CHAPTER V.

GENERAL PROVISIONS.

Prohibitions and restrictions.

24. The importation into or exportation from British India of the goods enumerated in the following clauses is prohibited:—

(*a*). Any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, has given to the Chief Customs Authority of the Presidency or place a notice in writing that such copyright subsists, and a statement of the date on which it will expire:

(*b*). Counterfeit coin:

(*c*). Any obscene book, pamphlet, paper, drawing, painting, representation, figure or article.

Importation without license of arms and ammunition prohibited.

25. The importation into British India of arms or ammunition, except under a license from the said Governor General in Council, or from some officer authorized in that behalf by the said Governor General in Council, is prohibited.

Proviso.

Nothing in the former part of this section shall apply to fowling pieces and sporting powder *bonâ fide* imported by any person in reasonable quantities for his own private use.

Governor General may prohibit or restrict importation or exportation of goods.

26. The Governor General in Council may from time to time, by notification in the *Gazette of India*, prohibit or restrict the importation or exportation by sea or by land, or both by sea and by land, of any particular class of goods.

Importation and exportation.

27. It shall be lawful to import into, or to export from, any place declared under section 10 to be a port for the shipment and landing of goods, any goods the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor General in Council for the time being in force.

Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.

28. On the importation into, or exportation from, any Port in British India of any goods not liable to duty, or liable to fixed duties according to weight or quantity only, or to duties on fixed Tariff valuations, the owner, consignee, importer, exporter or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief.

In case of doubt, the officer in charge of the Custom House may require any such person or any other person in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it is in his power to furnish.

And thereupon such person shall produce any such document or furnish any such information so required by such officer.

Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry.

Provided that, if the importer, owner or consignee, or his agent, makes a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an officer of Customs.

No re-valuation of goods assessed for duty on the declared value thereof shall be allowed after such goods have been removed from the Custom House.

Assessment of goods liable to duty according to value.

In all cases in which goods are liable to duty according to the value thereof, and in which no value has been fixed by law for the purpose of levying duties thereon, the value shall be assessed at the wholesale cash price, less trade-discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the duties payable on the importation thereof amount to.

Nothing in this section applies to opium, salt or spirits.

Under-valued goods how dealt with.

29. If, upon the examination of any goods chargeable with duty upon the value thereof, but for which a specific value is not fixed by law, for the purpose of levying duties thereon, it appears to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as stated in the bill of entry or shipping bill, such officer may detain such goods.

In every such case the detaining officer shall forthwith give notice in writing to the person entering the goods, of their detention and of the value thereof as estimated by him; and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which they were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall then cause them to be sold by public auction after due notice in the official Gazette.

If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall, at the discretion of the Chief Officer of Customs, be payable to the officer who detected the under-valuation of the goods.

Nothing in this section shall prevent the Chief Officer of Customs, when he has reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, on payment of such increased rate of duties, or on such other terms as he may determine.

Duties on goods retained under section 29 for use of Government.

30. When goods are retained under section 29 for the use of Government, the duties payable thereon shall in no case be levied from the person entering such goods.

Date of importation how to be determined.

31. If upon the first levying, repealing, enhancement or reduction of any duty,

or upon any change of any valuation for duty,

or upon the first permitting, prohibiting or restricting of any importation,

it becomes necessary to determine the exact date on which an importation of goods had effect,

such date shall be deemed to be that on which the goods were actually entered for home-consumption at the Custom House.

For the purpose of this section goods shall be deemed to be entered when the bill of entry thereof is delivered to the officer in charge of the Custom House.

Date of exportation how determined.

32. If, in like manner, it becomes necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

Contracts for sale of goods, duty on which is raised or lowered before performance.

33. When a contract is entered into for the sale of any dutiable goods at a fixed price including the duty leviable in British India at the date of the contract, and subsequently thereto, and before the contract is fully performed, the duty on such goods is raised or lowered, and levied accordingly, the amount to be paid to or received by the parties to the contract shall be increased or diminished, as the case may be, by the amount by which such duty is raised or lowered.

Illustrations.

(*a.*) A, a merchant in Calcutta, contracts with B, a merchant in Liverpool, to sell him 100 maunds of indigo at Rs. 200 per maund, including the export duty at the rate of 3 rupees per maund. Before the contract is fully performed the duty on indigo is reduced to 1 rupee per maund. B is entitled to deduct from the price agreed on Rs. 200, being Rs. 2 per maund.

(*b.*) A, a wine merchant in Bombay, contracts with B, a merchant in Bordeaux, for a thousand gallons of claret at Rs. 5 per gallon, including the import duty of 1 rupee per gallon. Subsequently, and before the contract is fully performed, the duty is raised to Rs. 2 per gallon levied at that rate, B is entitled to be paid at the rate of Rs. 6 per gallon.

Duty leviable on seaborne goods, duty on which has been altered during transit.

34. When during the transit by sea to British India of any dutiable goods, the duty on such goods is raised, the duty leviable on such goods on arrival in British India shall be the duty which is in force in respect of such goods when such transit commenced, and when the duty on such goods is reduced, the duty leviable thereon shall be such reduced duty.

Re-imported articles of country produce to be deemed Foreign.

35. If goods produced or manufactured in British India be imported into any Customs Port from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the duties, conditions and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof:

Proviso.

Provided that, if such importation takes place within three years after the exportation of such goods, and it is proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority from time to time directs.

Goods for which any drawback of Excise has been received on exportation shall in all cases be treated as Foreign goods, unless the Chief Customs Authority in any case otherwise directs by special order.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

36. The Officer in charge of the Custom House, whenever he sees fit, may require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board-ship before landing or after shipment, and may levy duty according to the result of such weighing or measurement.

Customs Officer may open package and examine goods shipped.

37. Any Officer of Customs may open any package, and fully examine any goods brought by sea, or shipped or brought for shipment at any place in British India.

Stations for Customs Officers to board and also land from ship.

38. The Chief Customs Authority may from time to time appoint, in any Customs Port, stations or places at which vessels arriving at or departing from such Port shall bring-to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port small vessels, not brought into Port by Pilots, shall be required to anchor or moor.

The Chief Officer of Customs may at any time station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port.

Power to depute Officer of Customs to board ships.

39. The Officer in charge of the Custom House at any Port in British India, may at any time depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port.

Every Officer of Customs so sent shall remain on board of such vessel by day and by night until it be otherwise ordered by the Officer in charge of the Custom House:

Proviso.

Provided that the Officer in charge of the Custom House may direct, whenever he sees fit so to do, and on such conditions as he sees fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

Servant to be received with Officer.

Accommodation of Officer and servant.

40. Every Master of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

Officers of Customs to have free access to every part of the ship, and may seal and secure goods.

41. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and may fasten down any hatchway or entrance to the hold, and mark any goods before landing, and lock up, seal, mark, or otherwise secure any goods on board of such vessel.

Officer in charge of Custom House may authorize search and opening of locks.

If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

On production of such order, the officer bearing the same may require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, he may break the same open;

Goods not to be landed on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

42. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall on any Sunday or on any holiday or day on which the discharge of cargo is prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Customs Port or be shipped or water-borne for exportation or for carriage coastwise;

nor, except with such written permission, shall any goods be so discharged, shipped or water-borne on any day, except between such hours as the Chief Customs Authority from time to time appoints by notification in the official Gazette; nor without the presence or authority of an Officer of Customs;

nor in the case of goods so shipped or water-borne from any place in any such Port except a wharf duly appointed for such purpose;

nor without the presence of the proper Officer of Customs;

nor before due entry outwards of the exporting vessel and of the goods;

nor before such goods shall have been duly cleared for shipment.

CHAPTER VI.

IMPORTATION.

Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered.

43. The Local Government may, by notification in the official Gazette, fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass until the Master thereof has delivered to the Pilot, Officer of Customs or other person duly authorized to receive the same, a manifest signed by the Master containing a true specification of all goods imported in such vessel, with such particulars and made out in such form as is from time to time directed by the Chief Customs Authority.

Delivery of manifest when vessel anchors below reporting station.

If, in any River or Port wherein a place has been fixed by the Local Government under this section, the Master of any vessel arriving from any Foreign Port or place remains outside or below the place so fixed, such Master shall nevertheless, within twenty-four hours after the vessel anchors, deliver to the Pilot, Officer of Customs or other person authorized to receive the same, a manifest as provided in the same section.

Power of Master of steamer to enter ship's agent as consignee.

44. In the case of a steamer the Master may enter in the manifest the name of the ship's agent as that of the consignee of any cargo, and the Chief Customs Authority may treat him as such consignee, provided he gives sufficient security to pay all claims for damage or short delivery which may be established by the owner of such cargo.

Duty of person receiving manifest.

45. The Pilot, Officer or other person so receiving the said manifest shall countersign the same and enter thereon such particulars as the said Chief Customs Authority from time to time directs in this behalf.

Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom House.

46. No vessel arriving in any Customs Port from any Foreign Port or place, shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided; nor until a copy of such manifest, together with an application for entry inwards, has been presented to the Officer in charge of the Custom House, and order has been given thereon by such officer for the discharge of the cargo.

The Officer in charge of the Custom House may refuse to give such order, until any port-clearance, cockett, or other paper, which he knows or has reason to believe had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him.

Nothing in this section shall prevent an Officer in charge of a Custom House from granting, prior to receipt of the original manifest and prior to the entry of the vessel at the Custom House, a special pass, permitting bulk to be broken. The granting of such pass shall be subject to such rules as may from time to time be prescribed by the Chief Customs Authority.

Master, if required, to deliver bill of lading, &c., to Officer in charge of Custom House.

47. The Master of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Customs Port, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as are put to him by such officer.

Goods not to leave ship unless entered in manifest.

48. No goods shall be allowed to leave any vessel, unless they be duly entered in the manifest of such vessel.

Amendment of errors in manifest.

49. Nothing contained in section 48 shall prevent any Officer in charge of a Custom House from permitting the Master of any vessel to amend any obvious error in the manifest, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary manifest.

But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; and, if he decide to receive any such amended or supplementary manifest, he may levy thereon such fee as the Chief Customs Authority from time to time directs.

Period to be allowed for landing import cargo.

50. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House directs, shall be allowed for the landing of import cargo from such vessel.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such period of fifteen working days, or for the services of several such officers for respective periods the aggregate of which does not exceed fifteen working days.

Consequence of exceeding same.

If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Procedure in respect of goods not landed within time allowed.

51. If the importer, owner or consignee of any goods (except such as have been declared by the Master as not to be landed), or the agent of such importer, owner or consignee does not land such goods within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same, as the Local Government from time to time appoints by notification in the official Gazette, or within such further period as the bill of lading of such vessel specifies, the Master of the vessel, or the Officers of Customs on his application, may then carry such goods to the Custom House.

The Officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and, if notice in writing has been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, he shall hold such goods until he shall have received notice in writing that the said charges are paid.

Effect of not discharging cargo in any earlier period specified in bill of lading.

52. If any period earlier than the number of working days so appointed is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner or consignee of such cargo, or his agent does not land the same within such specified period, the Master of such vessel, or the Officers of Customs, on his application, may then carry such goods to the Custom House.

The Officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and, if notice in writing has been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, he shall hold such goods until the said charges are paid.

Goods may be landed at any time after arrival, with consent.

53. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel.

If any package or parcel so carried to the Custom House remains unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master may give such notice as is provided in section 51, and the Officer in charge of the Custom House shall thereupon hold such package or parcel as provided in the said section.

Procedure in case of non-payment of duties within four months after entry of vessel.

54. If the duties chargeable upon any goods carried to the Custom House under the provisions of any of the three sections last preceding, together with the freight, primage, charges of landing and removal, rent and other charges to which such goods are liable, are not paid within four months from the date of entry of the vessel;

or if such goods are not duly warehoused within such period;

such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage and general average; next to the payment of duties; and then to the payment of other charges.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner.

Nothing in this section shall authorize the passing for home-consumption of any dutiable goods without payment of duties of Customs thereon: provided that such goods may be so passed where the importer, owner or consignee furnishes security, to the satisfaction of the officer in charge of the Custom House, for the payment of the duties to which such goods are liable.

Goods not cleared within two months from date of landing, to be sold.

55. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House directs, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of duties and other charges.

Disposal of proceeds.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made:

Proviso.

Provided also that where such goods are arms, ammunition or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India) and in such manner as the Local Government may from time to time direct.

Goods removed from ship to be forthwith landed.

56. All goods removed from on board of any vessel for the purpose of being landed and passed for importation, shall be forthwith landed at the wharf or other place appointed for the landing of such goods.

Goods not to be landed elsewhere than at appointed wharf or place.

57. No goods discharged from any vessel under the authority of an Officer of Customs shall be landed, except at the wharf or other place appointed for the landing of such goods.

No goods discharged into any boat for the purpose of being landed shall, previously to their being landed, be transhipped into any other boat without the permisson of an Officer of Customs.

Boat-note.

58. When any goods are sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof.

Each boat-note shall be signed by an officer of the vessel, and likewise by the Officer of Customs on board, if any such officer be on board.

Entry for home-consumption.

59. The importer, owner, or consignee of any dutiable goods intended to be delivered for home-consumption on the landing thereof from the importing ship, or the agent of such importer, owner or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may from time to time be directed by the Chief Customs Authority.

The particulars of such entry shall correspond with the particulars given of the same goods and packages in the manifest of the ship.

Claims to abatement of duty on account of damage how to be treated.

60. No claim for any abatement or refund of duty, on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Customs Port, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House appoints for the purpose.

61. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the official Gazette, or some mercantile newspaper circulating in the place, be sold by public auction at such time (within thirty days from the date of entry), and at such place as the Officer in charge of the Custom House appoints.

Disposal of damaged goods and levy of duty thereon.

The duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account-sales, without any abatement or deduction, except of so much as represents the duties payable on the importation thereof.

On goods the value of which has been fixed by law for the purpose of levying duties thereon, no abatement of duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value.

No abatement of duty on account of damage shall be allowed on wines, spirits, or beer or on any other articles on which duties are levied on quantity and not on value.

62. All goods derelict, jetsam, flotsam, and wreck, brought or coming into any Customs Port shall at all times be subject to the same duties to which goods of the like kind are subject on importation at such Port, unless it be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted duty-free.

Goods derelict and wreck to be treated as Foreign goods.

63. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty:

No duty on portion of import cargo intended for another Port, ship's stores, &c.

Provided that all such cargo and ship's stores shall be entered in the export manifest of the vessel as cargo or ship's stores not landed, and on which no duty has been paid.

Nothing in this section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

CHAPTER VII.

WAREHOUSING.

64. Any person who has imported any dutiable goods into any warehousing Port may deposit such goods, without payment of duty on the first entry thereof, in any public or private warehouse approved, appointed, or licensed under this Act.

Deposit of goods in warehouse without payment of duty.

65. Every public warehouse appointed under section 13 shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs.

Warehouse-keeper.

The warehouse-keeper shall, to the extent provided in sections 70 and 82 and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

66. The Chief Customs Authority, or such Officer of Customs as such Authority from time to time appoints in this behalf, may from time to time determine in what division of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods may be deposited without payment of duty on the first entry thereof.

Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.

A table of the rates of rent so fixed for every public warehouse shall be placed in a conspicuous part thereof.

Table of rates of rent.

67. At any warehousing Port or place, the Chief Officer of Customs may license private warehouses for the reception of dutiable goods under this Act without payment of duty on the first entry thereof.

Power to license private warehouses.

Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs.

Revocation of license.

68. Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the Form marked A hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority, and shall be signed by the applicant.

Form of application for license.

69. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the Form marked B hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority, and shall be signed by the applicant.

Form of application for admission of goods into warehouse.

70. No goods shall be warehoused unless they have been assessed for Customs duty in like manner as goods intended to be passed for home-consumption.

No goods to be warehoused without payment of duty, unless assessed for Customs duty.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the Custom House Officer who has assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in section 84.

Public warehouse-keeper or license-holder of private warehouse to be answerable for weight or gauge.

Nothing in this section shall interfere with the re-assessment for duty of warehoused goods on their clearance for home-consumption, should an alteration of any duty or of any valuation for duty render such re-assessment requisite with reference to the provisions of section 31.

Saving of re-assessment of warehoused goods on clearance for home-consumption.

71. When an application has been made for the warehousing of any goods under this Act, and when such goods have been assessed for duty as directed in section 70, the importer, owner, or consignee, or his agent shall execute a bond for the amount of such duty in the Form marked C hereto annexed, or in such other form as is from time to time prescribed by the Chief Customs Authority.

Bond under what circumstances to be taken. Form and conditions of bond.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

72. Every bond shall be for twice the amount of duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand, at such rate, not exceeding six per cent. per annum, as is fixed by the Chief Customs Authority.

Terms of bond to be executed.

Every person executing any such bond shall be bound thereby for the payment of all duties, interest, and charges claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

73. When any such bond has been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of import duty.

Period for which goods may remain warehoused under bond.

74. When the provisions of sections 69, 70, 71 and 72 have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited.

Procedure in respect of goods to be warehoused.

There shall be sent with the goods a pass in which the name of the importing vessel and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified.

On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed.

75. No package, butt, cask, or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission.

Packages &c., to be marked and numbered before admission into warehouse.

76. All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they have been imported, except as provided in section 81.

Goods how warehoused.

77. The Officer in charge of the Custom House may at any time issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he directs; and after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

Power to cause packages lodged in warehouse to be opened and examined.

When any goods have been so sealed and marked after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods are opened with the permission of such Officer, the packages shall, if it seems fit to such Officer, again be sealed or marked as before.

78. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act.

Access of customs officer to private warehouse.

79. Every bond executed for duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such duties and other demands of Customs after seven days have passed from the date on which the Officer in charge of the Custom House has given notice that the license for such warehouse is withdrawn.

When bond for duty on goods in private warehouse may be sued on.

80. Any importer, owner, or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House.

Access of owners to warehoused goods.

When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House finds it expedient to employ such special Officer.

81. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority from time to time prescribes, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing,

Goods in warehouse may be sorted, repacked, &c., by owner, &c.

(*a*) to sort, separate, pack, and repack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be repacked in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House permits);

(*b*) to fill up any casks of wine, spirits, or beer from any casks of the same secured in the same warehouse;

(*c*) to mix any wines of the same sort, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

(*d*) to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of duty, except as the same may eventually become payable on a deficiency of the original quantity;

and after such goods have been so separated and repacked in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

82. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.

83. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, are lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority may remit the duties due thereon, or return them if paid:

Power to remit duties on warehoused goods lost or destroyed;

Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction.

If goods lodged in a warehouse receive damage through unavoidable accident, they shall be reassessed for duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

and if goods are damaged, duty to be levied on actual value.

84. The import duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever:

Import duty to be on quantity or value registered at time of importation.

Proviso as to wines, spirits, beer or salt.

Provided that, if it appear, at the time of clearing any wines, spirits, beer or salt from any warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the duties thereon, to an extent not exceeding the rates specified below, or in such table as may from time to time be prescribed in this behalf by the Local Government and notified in the official Gazette:

Rates of ullage or wastage in respect to Wines, Spirits, and Beer in cask.

For any time not exceeding	6 months	... 2½ per cent.
Exceeding 6 months and not exceeding	12 ,,	... 5 ,,
Exceeding 12 months and not exceeding	18 ,,	... 7½ ,,
Exceeding 18 months and not exceeding	2 years	... 10 ,,
Exceeding 2 years and not exceeding	3 ,,	... 12½ ,,

When Salt is warehoused in a Government Gola or Store-house under charge of a Government Officer, duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the duties on Salt warehoused in a private Gola or Store-house shall be prescribed from time to time by the Local Government and notified in the official Gazette.

85. When any Wines, Spirits, Beer or Salt lodged in a private warehouse are found to be deficient at the time of the delivery therefrom, and if such deficiency is proved to be due solely to ullage or wastage, the Chief Customs Authority may direct, in respect to any such article and for the purposes of this section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in section 84.

Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.

86. No goods shall be removed from any warehouse, except after application to the Officer in charge of the Custom House for permission to pass the goods for exportation by sea to some Foreign Port or place;

Goods not to be removed from warehouse, except after application to Officer in charge of Custom House.

or for home-consumption, in like manner as is prescribed by section 59 for goods entered for home-consumption on the landing thereof;

or for removal to another warehouse, as provided in sections 93, 94, 95 and 96.

87. Application to remove goods from any warehouse shall be made in the Form marked D hereto annexed, or in such other form as the Chief Customs Authority from time to time prescribes.

Form of application for removal of goods.

Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

Twenty-four hours' notice to be given.

88. If any goods are taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the duties due upon such goods.

Immediate payment of duty on goods improperly taken out of warehouse.

89. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse shall, if paid by the Officer in charge of the Custom House or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the duties of Customs.

Expenses of carriage, packing, &c., to be borne by owners.

90. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues.

Payment of rent and warehouse dues.

If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House may, in liquidation of such demand (any transfer or assignment of the goods notwithstanding), cause to be sold by public auction after due notice in the official Gazette such sufficient portion of the goods as he may select.

In case of failure, goods may be sold, &c.

Out of the proceeds of such sale the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if any, to the importer, owner, or consignee:

Disposal of proceeds.

Provided that application for the same be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

91. If any goods warehoused as provided in this Act are removed or taken from the warehouse otherwise than for removal to another warehouse, as provided in sections 93, 94, 95 and 96, or for exportation by sea to some Foreign Port or place;

On goods being removed otherwise than for export, &c., full duty to be paid.

or if any goods have not been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse,

the Officer in charge of the Custom House shall thereupon demand the full amount of import duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

But if any goods so warehoused are before the expiration of the time last mentioned removed or taken from the warehouse for removal to another warehouse as provided in sections 93 to 96 inclusive, or for exportation by sea to some Foreign Port or place, no duty shall be chargeable.

92. If any importer, owner, or consignee fails to pay any duty or penalty that falls due on account of goods warehoused under this Act, the Officer in charge of the Custom House may either proceed upon the bond executed by such importer, owner, or consignee, or may cause such portion as to him seems fit of the warehoused goods on account of which the duty or penalty is demanded, to be detained in satisfaction thereof;

Procedure on failure to pay duty.

and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand, after due notice in the official Gazette.

The proceeds of any sale so made of goods so detained shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods: Provided that application for the same be made within one year from the sale, or that good reason be shown why such application was not so made.

No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided, for any demand of Customs duties or penalty claimed thereon.

93. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs, and on such conditions and after giving such security as the Chief Customs Authority directs, remove goods from one public or private warehouse to another warehouse in the same Port.

Power to remove goods from one warehouse to another.

When any person desires so to remove any goods, he shall make application in the Form marked E hereto annexed, or in such other form as the Chief Customs Authority from time to time prescribes.

94. Goods warehoused under this Act at any warehousing Port may from time to time be removed by sea or by inland carriage, in order to be re-warehoused at any other warehousing Port.

Bonded goods may be removed from one Port to another.

When any person desires so to remove any goods, he shall apply to the Chief Officer of Customs, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority from time to time prescribes.

Procedure.

95. When permission is granted for the removal of any goods from one warehousing Port or place to another, under section 94, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination;

Officers at Port of removal to transmit account of goods to Officers at Port of destination.

and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination within such time as the Chief Customs Authority directs.

Owner to execute bond for due arrival, &c.

Such bond may be taken by the proper Officer either of the Port or place of removal, or of the Port or place of destination, as best suits the residence or convenience of the persons interested in such removal.

If such bond is taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods are produced to the proper Officer and duly re-warehoused at the Port or place of destination within the time allowed for such removal, or are otherwise accounted for to the satisfaction of such Officer; nor until the full duties due upon

any deficiency of such goods, not so accounted for, have been paid.

96. The Chief Customs Authority may permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount, and under such conditions as the Chief Customs Authority approves, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination within such time as the Chief Customs Authority directs.

Remover may enter into a general bond.

97. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

Goods on arrival at Port of destination to be subject to same laws as goods on first importation.

98. When any goods warehoused as provided in this Act are removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond.

Removal of goods to be noted on the bond, with particulars.

Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the export-pass under which they have been taken away, if removed for exportation by sea, or of the import-pass or order if removed for home-consumption, and the amount of duty (if any) paid.

99. A register shall be kept of all bonds entered into for Customs duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in section 98.

A register of bonds to be kept.

When the register shows that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home-consumption on the payment of duties, or owing to their re-exportation by sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods have been paid, the Officer in charge of the Custom House shall cancel such bond as discharged in full, and deliver it, so cancelled, to the person who has executed or who is authorised to receive it.

When bonds are to be cancelled and returned to obligee.

100. In no case shall the settlement of duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Duty on warehoused goods to be settled within three years.

101. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Warrant to be given every time goods are warehoused.

Such warrant shall be in the Form I hereto annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

Form of warrant.

102. All the provisions of this Act, relating to private warehouses, shall be applicable to the warehouses wherein the Bengal Bonded Warehouse Association receives bonded goods.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CHAPTER VIII.

TRANSHIPMENT.

103. When goods other than salt or opium are brought in any vessel to any Port in British India, and such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to any other British Indian or Foreign Port, and application is made for leave to tranship such goods, such transhipment shall be allowed without the payment of duty at the Port of transhipment, subject to such rules as may from time to time be prescribed by the Local Government:

When goods brought into one Indian Port, but intended for another Indian or Foreign Port, may be transhipped without payment of duty.

Provided that where the goods so transhipped are to be removed to some other Port in British India, the person requiring such transhipment shall enter into a bond, with such security as may be required of him, in a sum equal at least to the duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of transhipment directs.

Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of sections 94 and 95.

An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

104. A transhipment fee on each bale or package of goods transhipped under section 103 shall be levied at such rates and under such regulations as may from time to time be prescribed by the Local Government.

Levy of transhipment fee.

All such rates and regulations shall be published in the local official Gazette.

105. All goods transhipped under section 103 for removal to a Port in British India shall on their arrival at such Port be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof and under the laws and rules,

Entry and warehousing on arrival of goods transhipped under section 103.

in so far as such laws and rules can be made applicable which regulate the entry and warehousing of such last mentioned goods.

106. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of marine stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be transhipped from one such vessel to any other such vessel without payment of import duty.

Transhipment of stores from one vessel to another of the same owner without payment of duty.

CHAPTER IX.

EXPORTATION.

107. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application has been duly made to the Officer in charge of the Custom House by the Master of such vessel, or by his authorized agent; nor until an order has been given thereon by such Officer for such entry or shipment of cargo.

Permission for entry outwards to be obtained before export cargo is shipped.

Every application made under this section shall specify the name, tonnage, and nation of the vessel, the name of the Master, and the name of every place for which cargo is to be shipped.

108. A period of fifteen working days after the expiration of the period allowed for discharging import-cargo under section fifty, or such further period as the Officer in charge of the Custom House directs, shall be allowed for the shipment of export-cargo on board of every vessel not exceeding six hundred tons.

Period allowed for shipment of export-cargo.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single Officer of Customs for such period of fifteen working days, or for the services of several such Officers for respective periods not exceeding in the aggregate fifteen working days.

If the period occupied in the shipment of export-cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import-cargo and before commencing of export-cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master.

Allowance for period during which vessel is laid up.

109. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent has filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the Form marked F hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority.

Exporter to deliver shipping bill before shipping any goods.

110. Before any warehoused goods or goods subject to duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Officer in charge of the Custom House directs, with one sufficient surety that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such Officer.

On entry outwards, bond to be given for shipping and landing.

111. When any goods are sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof.

Boat-note.

Each boat-note shall be signed by the proper Officer of Customs, and, if an Officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such Officer.

If no such Officer be on board, every such boat-note shall be delivered to the Master of the vessel, or to an Officer of the vessel appointed by him to receive it.

112. No vessel, whether laden, partially laden, or in ballast, shall depart from any Port in British India until a port-clearance has been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same.

No vessel to depart without a port-clearance.

Every application for port-clearance shall be made by the Master at least twenty-four hours before the intended departure of the vessel; and every Master of a vessel so applying for port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as are demanded of him.

A certificate of departure without port-clearance purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

113. No Pilot shall take charge of any vessel proceeding to sea, unless the Master of such vessel produces a port-clearance.

No Pilot to take charge of any vessel proceeding to sea without production of port-clearance

114. The Master of every vessel intending to leave any Port in British India shall, at the time of applying for port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority, containing a full and true specification of all goods to be exported in the vessel and signed by the Master;

Master on applying for port-clearance, to deliver manifest and certificates.

and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, requires.

The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the manifest, shall grant a port-clearance to the Master, and shall return at the same time to such Master one copy of the manifest duly countersigned by the proper Officer of Customs.

Nothing in this section shall prevent the Officer in charge of the Custom House from granting (subject to such rules as the Chief Customs Authority may from time to time prescribe) a port-clearance to the Master when the Ship's Agent furnishes sufficient security for duly delivering, within three days from the date of grant, the manifest and certificates aforesaid.

Port-clearance may be refused, unless all documents are delivered and charges paid.

115. The Officer in charge of the Custom House may refuse port-clearance to any vessel until the required manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master thereof, are duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House directs.

Additional charge on goods passed for shipment after port-clearance has been granted.

116. When goods are passed through the Custom House for shipment on an application presented after port-clearance has been granted, two per cent. upon the market-value of any such goods not liable to duty, or liable to specific duties according to weight or quantity only, or to duty according to value, and upon the tariff value of goods so passed which are liable to duties on fixed tariff valuations, shall in every case be levied, in addition to any duty to which such goods are ordinarily liable:

Nothing in this section shall apply to any shipment of Treasure or Opium.

Return of duty on goods not shipped or re-landed.

117. Upon an application being made to the Officer in charge of the Custom House, the duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose behalf such duty was paid:

Proviso.

Provided that no such refund shall be allowed unless application therefor has been made before the expiration of three clear working days after the vessel on which such goods were intended to be shipped, or from which they were re-landed, has left the Port.

Goods re-landed from a vessel returning to Port or putting into another Port.

118. If any vessel, after having cleared from any Customs Port shall, without having discharged her cargo, return to such Port, or put into any other Customs Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he desires to land the same or any portion thereof for re-export, may make application to the Officer in charge of the Custom House.

Such Officer, if he grant the application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board.

Goods on board of such vessel shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless such goods are lodged and remain under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export.

All charges attending such custody shall be borne by the exporter.

Vessel returning to Port may enter and land goods under Import-rules.

119. In either of the cases mentioned in section 118, the Master of the vessel, or any owner or shipper of cargo therein, may enter such vessel and land such cargo under the rules for the importation of goods.

In every such case the export duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty free on certain conditions.

120. Provisions and other such ship's stores warehoused at the time of importation may be exported without payment of duty for use and consumption on board of any vessel proceeding directly to a Foreign port or place, whether such port or place be or be not the port or place of ultimate destination.

Articles of Indian produce or manufacture including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House determines with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart:

Provided that no such rum shall be shipped as stores free of duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

CHAPTER X.

DRAWBACK.

Amount of drawback allowable on re-export.

121. Upon the re-export by sea to any Foreign Port or place of any goods, except Salt or Opium, capable of being easily identified, imported by Sea into British India from any Foreign Port or place, and upon which duties of Customs have been paid on importation, three-fourths of such duty shall be repaid as drawback:

Conditions for grant of drawback.

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority, on sufficient cause for such extension being shown, in any case determines.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article entered in the export manifest of the vessel as ship's stores.

Time to claim and demand payment of drawback.

122. No payment of drawback shall be made upon any goods re-exported from any port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment.

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea.

Drawback not allowed on goods of value less than amount claimed.

123. No drawback shall be allowed upon the exportation of any goods entered for drawback, which are of less value than the amount of the drawback claimed.

Drawback on exportation of spirit.

124. A drawback of the whole of the duties paid under Act No. XXIII of 1860 (*to amend Act XXI of* 1856, *to consolidate and amend the law relating to the Abkárí Revenue in the Presidency of Fort William in Bengal*), section one, on spirit manufactured at distilleries worked according to the English method and exported by sea in manner prescribed by Act No. XXI of 1856 (*to consolidate and amend the law relating to the Abkárí Revenue in the Presidency of Fort William in Bengal*) to any Foreign Port shall be allowed at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under the said Act No. XXIII of 1860, and that the spirit, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

No drawback on goods not entered in Export manifest.

125. No drawback shall be allowed upon goods not included in the Export manifest.

No drawback allowed except on goods exported out of India.

126. No drawback shall be allowed upon goods exported from one Customs Port to another.

But drawback may be allowed upon goods which, after having been charged with dutyat one Customs Port and thence exported to another, are thence again re-exported by sea to a Foreign Port or place:

Proviso.

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

Declaration to be made by parties claiming drawback.

127. Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed and are not intended to be re-landed at any Customs Port; and that such person was at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Drawback of duties on wine allowed for Officers of the Navy.

128. A drawback of the whole of the duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine has been warehoused without payment of duty on the first entry thereof.

The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below; that is to say—

	Gals.
For every Admiral ...	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate ...	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate ...	210
Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon ...	105

Persons entering such wine for drawback to declare name and rank of Officer claiming same.

129. Every person clearing and claiming drawback for wine, as provided in section 128, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed.

All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship has certified the receipt of such wine into his charge, and the proper Officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine from one Naval Officer to another, &c.

130. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer on board of the same, or of any other such ship, as part of his authorized proportion;

or may permit the transhipment of any such Wine from one ship to another for the use of the same Naval Officer;

or the re-landing and warehousing of any such Wine for future re-shipment.

The Officer in charge of the Custom House may also receive back the duties for any such wine, and allow the same to be cleared for home-consumption.

Provisions and stores for Her Majesty's Navy exempt from duty.

131. Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of duty;

and where duties have been paid on such provisions and stores, drawback of such duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

CHAPTER XI.

COASTING TRADE.

Power to regulate carriage of goods coastwise.

132. The Governor General in Council, or the Local Government acting under the general instructions of the Governor General in Council, may from time to time determine, by rules to be published in the official Gazette, on what conditions goods may be carried in a coasting vessel, though shipped at a Foreign Port in India to be so carried; also in what cases goods may be shipped in a coasting vessel before all goods brought in such vessel from a Foreign Port or place have been unladen.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

133. The Master of every coasting vessel, which is square-rigged or propelled by steam, shall keep, or cause to be kept, a cargo-book stating the name of the Master, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound.

At every Port of lading such Master shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

At every Port of discharge of any such goods, such Master shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every Port of lading, and of arrival at every Port of discharge, shall in like manner be duly entered.

Every such Master shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein.

Power to prescribe rules for Masters of other coasting vessels.

134. The Governor General in Council or the Local Government may from time to time, by notification in the official Gazette, prescribe rules for the guidance of the Masters of all other coasting vessels, as to the matters mentioned in the last preceding section.

Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.

135. Before any coasting vessel departs from the Port of lading, an account, with a duplicate thereof, in the Form marked G hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority, shall be filled in and signed by the Master and delivered to the Officer in charge of the Custom House.

Such Officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods shipped therein.

Power to require bond before port-clearance granted.

136. The Officer in charge of the Custom House may, for sufficient reason, refuse port-clearance to any vessel declared to be bound to any Port in British India, unless the owner, agent, Master gives a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a reasonable time to be prescribed in each case by the Officer requiring the bond.

Grant and revocation of general pass.

137. The Chief Customs Authority may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting steam-vessel at any Ports of despatch or destination, or at any intermediate Ports at which she touches for the purpose of receiving goods or passengers.

Any such general pass may be revoked by notice in writing under the hand of the proper Officer delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

Time for delivery of pass.

138. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery.

Goods on coasting vessel, if excisable, not to be unladen without permission.

139. If any of the goods on board of any coasting vessel be subject to any duty of Excise, they shall not be unladen without the permission of the proper Officer of Excise.

Power to board and examine any coasting vessel.

140. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel.

The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

CHAPTER XII.

CARGO BOATS.

Power to prohibit plying of unlicensed cargo-boats.

141. The Local Government may declare with regard to any Port, by notification in the official Gazette, that after a stated date no boat not duly licensed and registered will be allowed to ply as a cargo-boat for the lading and shipping of merchandize within the limits of such Port.

Issue of licenses.

142. The Chief Officer of Customs of the Port with regard to which a notification has been issued under section 141 may issue licenses for and make registration of cargo-boats, under such rules and on payment of such fees as the Local Government from time to time prescribes.

Every table of fees prescribed under this section shall be published in the local official Gazette.

CHAPTER XIII.

SPIRITS.

Rules for removal of spirits from distillery without payment of duty, and for exportation thereof.

143. The Chief Customs Authority may from time to time prescribe the conditions on which and the rules under which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of duty of Excise.

The person so removing any such spirits shall execute to the Government a bond with one or more sureties, in the Form marked H hereto annexed, or in such other form as the said Chief Customs Authority from time to time prescribes, for the payment of duty on such portion of the said spirits as is not exported within four months from the date of the bond, and upon any portion which is exported to any other Port in British India not being a Customs Port, but proof of the landing whereof and of payment of duty of Customs thereon at the Port of destination is not furnished to the satisfaction of the proper Officer within six months from the date of the bond.

The Chief Officer of Customs of the Port of exportation may extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that duty has been paid.

Spirits for export to be taken direct from distillery to Custom House under pass.

144. Spirits for exportation under bond for the duty of Excise shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Officers of Excise.

Rules to be observed in exportation of spirits.

145. Spirits brought to the Custom House for exportation by sea shall, previous to shipment, be gauged and proved by an Officer of Customs.

Any drawback to be allowed for spirits on which duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

146. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom House, less an allowance for ullage and wastage at such rates as are from time to time prescribed by the Local Government and notified in the official Gazette.

Drawback of Excise duty on spirits manufactured after English method.

147. A drawback of duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of section 110, shall be allowed by the Officer in charge of the Custom House at the Port of exportation:

Provided that the exportation be made within one year from the date of payment of such duty of Excise, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Customs Ports, but such spirits may be exported under bond.

148. No drawback shall be allowed on spirits exported from any Customs Port in British India to any other Customs Port.

But it shall be lawful, on the conditions and under the rules from time to time prescribed under section 143, to export from any such Port to any other such Port, under bond for the duty of excise, spirits manufactured in British India after the English method.

Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at the rates from time to time prescribed by the Local Government and notified in the official Gazette.

Duty on spirits exported from one Indian Port to another, how to be adjusted.

149. Spirits manufactured in British India after the English method and exported under bond for the duty of Excise from any Port in British India to any other Port in British India not being a Customs Port, shall be chargeable at the Port of destination with duties of Customs at the ordinary rate fixed for duties on spirits of the like kind and strength imported into such Port.

Rum-shrub, &c., how to be charged with duty.

150. Rum-shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery shall be charged with duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer.

May be exported under same rules as spirits.

The provisions of this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor.

When any such liquor is removed for exportation without payment of duty of Excise, the bond to be executed by the person removing it shall be in the Form marked H hereto annexed, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Spirits intended for exportation may be removed for local consumption.

151. Spirits brought to the Custom House for exportation under bond for the duty of Excise may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise.

Credit for every such payment shall be given on settlement of the bond to which it relates.

Conditions of drawback and remission of duty on spirits.

152. No drawback shall be allowed for any spirits on which duty has been paid, nor shall the duty due on any spirits under bond be remitted, unless the spirits are shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export-cargo.

Re-land of spirits shipped.

Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise, in addition to the usual order of the Officer in charge of the Custom House.

153. The Local Government may from time to time prescribe rules for ascertaining and determining what spirit imported into British India shall be deemed to have been effectually and permanently rendered unfit for human consumption, so as to be subject only to an *ad valorem* duty of ten per cent. or other duty for the time being in force, and for causing such spirit, to be so rendered, if necessary, by their own officers, before the duty of customs leviable thereon is levied, and at the expense of the person importing it.

Power to make rules for ascertaining that imported spirit has been rendered unfit for human consumption.

Such rules, on being published in the local official Gazette, shall have the force of law.

154. In the absence of any such rules, or if any dispute arises as to their applicability, the Executive Officer of highest rank in the Department of Customs in the Port shall decide what spirit is subject only to the said *ad valorem* duty, and such decision shall be final.

Decision where no rules or their applicability disputed.

CHAPTER XIV.

CUSTOM-HOUSE AGENTS.

155. No person shall act in any Custom House as an agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House.

Agents must be duly authorized.

Such Officer may require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand rupees, for his faithful behaviour as regards the Custom House regulations and Officers.

Such Officer may, in case of misbehaviour, suspend or withdraw such authorization, but an appeal against every such suspension or withdrawal shall lie to the Chief Controlling Revenue Authority, whose decision thereon shall be final.

156. When any person makes application to any officer of Customs to transact any business on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business.

Agent to produce authority if required.

The clerk or servant or known agent of any person or of any mercantile firm may transact business at the Custom House, on account of such person or firm, if such person or a member of such firm identifies to the Officer in charge of the Custom House the person so empowered to transact his or their business, and deposits with such officer a written authority duly signed, empowering such officer to pay to such person all drawbacks, refunds and other monies for which he produces receipts.

CHAPTER XV.

DUPLICATE BILLS OF ENTRY.

157. Upon the entry or clearance of any goods for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or consignee, shall, if the Officer in charge of the Custom House so requires, deliver to such officer a duplicate of the bill of entry or shipping bill thereof.

Importer or exporter to deliver a duplicate of bill of entry or shipping bill if required.

In such duplicate all sums and numbers may be expressed in figures.

CHAPTER XVI.

TAKING OF SAMPLES.

158. Any Officer in charge of a Custom House may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which duties are payable, or for any other necessary purpose.

Officer in charge of Custom House may take samples of goods.

Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to him as the Officer in charge of the Custom House directs.

CHAPTER XVII.

MISCELLANEOUS PROVISIONS.

159. The Governor General in Council may from time to time, by notification in the *Gazette of India*, fix for the purpose of levying duties, the value of any goods exported or imported by sea on which duties of Customs are thereby imposed.

Power to fix values of dutiable goods.

160. When duty or other Customs-dues or charges have been short-levied through inadvertence, error, or misconstruction on the part of the Officers of Customs,

Payment of duties short-levied or erroneously refunded.

or when duty, after having been levied, has been erroneously refunded,

the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment or making of the refund;

and the Officers of Customs may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

161. No duty or other Customs-dues or charges which have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

No refund of charges erroneously levied or paid, unless application be made within six months.

162. The unshipping, carrying, shipping and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, lotting,

Importer and exporter to pay expense incidental to compliance with Custom House rules.

marking and numbering of goods, where such operations are necessary or permitted.

and the removing of goods to, and the placing of them in, the proper place or deposit,

shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

No compensation for loss or injury except on proof of wilful neglect.

163. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury occurring to such goods at any time while they remain or are lawfully detained in any Custom House, or on any Custom House wharf, or under charge any Officer of Customs, unless it be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

Rates of wharfage fees.

164. The Chief Customs Authority may from time to time fix the rate to be charged on goods left on any Custom House wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Duplicates may be granted and amendments made on payment of fee.

165. A duplicate of any certificate, manifest, bill, or other Custom House document may, on payment of a fee of not less than one rupee and not more than ten rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended.

Such Officer may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

Customs Officers may be exempted from service on any jury or inquest.

166. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

CHAPTER XVIII.

OFFENCES AND PENALTIES.

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

167. If any goods, the importation or exportation of which is for the time being prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction;

or if any attempt be made so to import or export any such goods by the Port or otherwise;

or if any such goods be found in any package produced to any Officer of Customs as containing no such goods;

or if any such goods or any goods subject to a duty or restriction in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any Port in British India;

or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction;

such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees.

Goods brought to be passed through Custom House liable to confiscation in case of discrepancy, misdescription, &c.

168. If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them;

or that the contents thereof have been wrongly described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with duty, or are being imported or exported;

or that the contents of such packages have been wilfully mis-stated in regard to sort, quality, quantity or value;

or that goods not stated in the entry or application have been fraudulently concealed in, or mixed with, the articles specified therein, or have been packed to deceive the Officers of Customs;

such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

For infringing rules under section 38.

168*a*. Any person infringing any rule or order made under section 38 by the Chief Customs Authority, or by the Chief Officer of Customs, shall be liable to a penalty not exceeding five hundred rupees.

For proceeding inward beyond fixed place before delivery of manifest.

169. If, in any River or Port wherein a place has been fixed under section 43 by the Local Government, the Master of any vessel arriving from a Foreign Port or place wilfully omits, before passing beyond such place, to deliver to the Pilot, Officer of Customs, or other person duly authorised to receive the same, a manifest, signed by the Master, and in the form and containing the particulars indicated in the same section, in so far as they are applicable to his ship, cargo and voyage;

or if any manifest so delivered does not contain a true specification of all goods imported in such vessel;

such Master shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For omitting to deliver manifest when vessel anchors below reporting station.

170. Any Master remaining outside or below any such fixed place, and wilfully omitting, for the space of twenty-four hours after anchoring, to deliver this manifest, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For like omission when reporting station has not been fixed.

If, after any vessel arriving from any Foreign Port or place has entered any Customs Port, and in which a place has not been fixed under section 44, the Master of such vessel wilfully omits, for the

space of twenty-four hours after anchoring, to deliver as required by that section his manifest to the Pilot, Officer of Customs or other person authorized to receive the same, such Master shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

171. Every Pilot, Officer of Customs or other person authorized to receive a manifest from any Master of a vessel, and refusing so to do, or failing to countersign the same or to enter the particulars referred to in section 43, shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

For Pilot, &c., not receiving manifest.

172. If any vessel arriving from any Foreign Port or place at any Customs Port shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of the Indian Ports Act, 1875, directly to some other place of mooring or unlading, the Master of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees, and the vessel shall not be allowed to enter until the penalty is paid.

For vessel removing from place of mooring, or unlading, without due authority.

173. The Master of any vessel arriving at any Port in British India from any Foreign Port or place who, when so required under section 38, fails to bring-to at any such station as has been appointed by the Chief Customs Authority for the boarding of vessels by an Officer of Customs, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For not bringing to at boarding station.

174. Every Master of a vessel refusing to receive on board an Officer of Customs deputed as provided in section 39, shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer is not received on board; and the vessel shall not be allowed to enter until the penalty is paid.

For refusing to receive Officer of Customs on board.

175. Any Master wilfully disobeying any direction contained in section 40 shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

For disobeying section 40.

176. Any Master of a vessel discharging or suffering to be discharged any goods not duly entered in the manifest of such vessel, shall be liable to a penalty not exceeding one thousand rupees.

For discharging goods not duly entered in manifest.

176*a*. Any goods found concealed in any place, box, or closed receptacle in any vessel, and not duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Goods found concealed liable to confiscation.

177. If any Master of a vessel refuses to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched when so required by an Officer of Customs bearing a written order to search;

For Masters resisting search, &c.

or if an Officer of Customs places any lock, mark, or seal upon any goods, and such lock, mark, or seal is wilfully opened, altered, or broken, before due delivery of such goods;

or if any such goods are secretly conveyed away;

or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, is opened without his permission—

in every such case the Master of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

178. If any bill of lading or copy required under section 47 is false;

or has been altered with fraudulent intent;

or if the goods mentioned in any such bill of lading, or in any bill of lading of which a copy is so produced, have not been *bonâ fide* shipped on board of such vessel;

For false entry, fraudulent alteration, &c.

or if any such bill of lading delivered under the same section, or any bill of lading of which a copy is so delivered, by any such Master, has not been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped;

or if any part of the cargo has been staved, destroyed, or thrown overboard;

or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House;

in every such case the Master shall be liable to a penalty not exceeding one thousand rupees.

179. If any goods be found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Officer of Customs directs.

Goods not agreeing in description and quantity with entry in manifest liable to confiscation or extra duty.

180. If any goods entered in the manifest of a vessel are not found on board of the vessel;

or if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the Officer in charge of the Custom House,

For not being able to account for missing or deficient package, &c.

the Master of such vessel shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value.

181. Any Master of a vessel causing or suffering any goods to be removed contrary to any of the provisions of section 42 shall in every such case be liable to a penalty not exceeding one thousand rupees; and all goods so removed shall be liable to confiscation.

For removing goods contrary to section 42.

182. If any goods removed from on board any vessel for the purpose of being landed and passed for importation, are not landed as provided in section 56,

For not landing goods in accordance with section 56.

or if the boat containing such goods be found out of the proper track between the vessel and such wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House,

such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation,

and the person by whose authority the goods are being landed, and the person in charge of the boat, shall be liable to a penalty not exceeding twice the amount of the duty leviable on the said goods.

183. Any goods landed or transhipped contrary to the provisions of section 57 shall be liable to confiscation.

For landing, &c., goods contrary to section 57.

184. If any goods sent to be landed be found without the boat-note required by section 58 in any boat proceeding to land, such goods shall be liable to confiscation; and the person by whose authority the goods are being landed, or the person in charge of the boat, shall be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.

For sending goods without boat-note.

185. If, without entry duly made, any goods are taken or passed out of any Custom House or wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred rupees.

For taking or passing goods without entry.

Any prohibited or dutiable goods found, either before or after landing, concealed in any passenger's baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

186. If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner or consignee, or his agent or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the revenue, such goods shall be liable to confiscation;

For removing goods after landing and before due entry.

or, if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of such duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand rupees for every missing or deficient package of unknown value.

187. If any goods entered to be warehoused under this Act are carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand rupees.

For improper carrying into warehouse.

188. If any goods entered to be warehoused under this Act are withheld, or removed from any proper place of examination, before they have been examined and certified by the proper officer, such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.

For withholding or removing before examination goods entered to be warehoused.

189. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or misdescription thereof tending to injure the revenue, be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or misdescription, unless it be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental.

For misdescription of goods.

If the quantity or value of any goods has been over-stated on importation, the error may be rectified at any time before the warehousing of the goods is completed.

190. If any warehoused goods be not warehoused in accordance with section 75,

For warehousing goods improperly.

or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in section 81;

For altering warehoused goods.

or if any such goods be removed from the warehouse in which they were originally deposited, except in presence or with the sanction of the proper officer, or under the proper authority for their delivery,

For removing them improperly.

such goods shall be liable to confiscation.

191. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty rupees.

For neglecting to stow goods properly in warehouse.

192. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, fails, on the requisition of any officer of Customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, he shall, for every such neglect, be liable, not only to pay the duties due on such goods, but also to a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient.

Or for neglecting to produce goods when required.

193. If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or, after being duly warehoused, are fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Goods entered to be warehoused, if not duly warehoused or if concealed or removed, liable to be confiscated.

194. If the person who has obtained a license for any private warehouse licensed under this Act does not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or, upon demand made by any such Officer at any time within the hours of business at the Port, refuses access to any such Officer, such person shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

For refusing to open private warehouse when duly required.

195. If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For importer or owner of warehoused goods clandestinely gaining access.

196. If any goods lodged in a private warehouse are found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.

For deficiencies in a private warehouse, if beyond ullage and wastage allowed.

197. If any goods lodged in a private warehouse are found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary duty thereon.

For excess, in private warehouse, over registered quantity.

When any penalty is incurred under this section or section 196, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

198. Whoever takes any goods out of any warehouse without payment of duty, or who aids, assists, or is concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

For taking goods out of warehouse without paying duty.

If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such Officer, the Officer in charge of the Custom House shall, with the sanction of the Chief Customs Authority, make due compensation to such importer, owner, or consignee.

199. Whoever violates any rule prescribed under section 103 shall be liable to a penalty not exceeding one thousand rupees.

For infringing rules under section 103.

200. If any goods be taken on board of any vessel at any Port in British India before she has been entered outwards at such Port, in accordance with section 107, the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

For shipping goods before entry outwards.

201. If the Master of any vessel laid up under section 108 by the withdrawal of the Officer of Customs shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and, if not protected by a pass, shall be liable to confiscation.

For lading in absence of Customs Officer.

202. Whoever causes or suffers any goods to be shipped or water-borne to be shipped contrary to any of the provisions of section 109 shall, in every such case, be liable to a penalty not exceeding one thousand rupees; and any goods so shipped or water-borne for shipment, together with any vessel in which they are being so waterborne, shall be liable to confiscation.

For causing goods to be shipped contrary to section 109.

203. Any Master or Officer refusing to receive any boat-note in accordance with section 111, or receiving the same and failing to deliver it when required so to do by any Officer of Customs authorized to make such requisition, shall be liable to a penalty not exceeding five hundred rupees.

For non-receipt or non-delivery of boat-note.

204. Any Master of a vessel who attempts to depart without a port-clearance, shall be liable to a penalty not exceeding five hundred rupees.

For departing without port-clearance.

If any vessel actually departs without a port-clearance, the Master shall be liable to a penalty not exceeding one thousand rupees;

and such penalty may be levied by the Chief Officer of Customs of any Customs Port to which such vessel proceeds, or in which she is, and in Aden by such Officer as the Governor of Bombay in Council appoints in this behalf.

205. Every Pilot convicted before a Magistrate of an infraction of the rule prescribed by section 113, shall be liable to a penalty not exceeding one thousand rupees.

On Pilot taking charge of vessel without port-clearance.

206. If any goods liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the manifest of any vessel, are not duly shipped before the departure of such vessel, or are not duly certified by the proper officer as short-shipped, such goods shall be liable to confiscation.

Certain goods if entered in manifest and not shipped, liable to confiscation.

If any goods not enumerated in such manifest are taken on board of any such vessel, the Master shall be liable to a penalty not exceeding fifty rupees in respect of every package of such goods.

For shipping goods not in manifest, &c.

If any goods duly shipped on board of any such vessel be landed at any place other than that for which they have been cleared, the Master of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

For landing at place other than that for which goods have been cleared.

207. If any vessel actually departs, after failing to bring-to when required at any station appointed under section 38, the penalty leviable under section 204 from the Master of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel proceeds, or in which she is, or in case of Aden by such officer as the Governor of Bombay in Council appoints in this behalf.

Levy of penalty for failure to bring-to when required under section 38.

A certificate of such failure to bring-to when required, purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

208. If any goods on account of which drawback has been paid be not found on board of any vessel referred to in section 119, the Master shall be liable to penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

For deficiency in goods on which drawback has been paid on board vessel returning to port or putting into another port.

209. All goods entered for drawback, which are of less value than the amount of the drawback claimed, shall be liable to confiscation.

Confiscation of goods entered for drawback, which are less in value than the amount.

210. If any goods on the entry of which for re-export drawback has been paid, are not duly exported to a Foreign Port or place, or are unshipped or re-landed at any Customs Port (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under section 118 or section 119) such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation;

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

and the Master of the vessel from which such goods are so unshipped or re-landed, and any person by whom or by whose orders or means such goods are so unshipped or re-landed, or who aids or is concerned in such unshipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.

211. Any wine referred to in section 129 not laden on board of the ship for which it was intended, or unladen from such ship without the permission of the proper Officer of Customs, shall be liable to confiscation.

Wine not laden, or unladen without permission, liable to confiscation.

212. If, in contravention of any rules made under section 132, any goods are taken into or put out of any coasting vessel;

For contravention of rules as to coasting trade.

or any coasting vessel touches at any Foreign Port or place, or deviates from her voyage, unless forced by unavoidable circumstances;

or if the Master of any coasting vessel which has touched at a Foreign Port or place fails to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel afterwards first arrives,

the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to pay double duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary duty which shall in every case be levied on such goods.

213. If upon examination, any package entered in the cargo-book required by section 133, as containing Foreign goods is found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package is found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation.

For breach of rules as to cargo-book.

If the Master of any vessel mentioned in section 133 fails correctly to keep, or to cause to be kept, a cargo-book, or to produce the same on demand;

or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered;

or if any goods entered as laden and not noted as delivered, be not on board,

the Master shall be liable to a penalty not exceeding five hundred rupees.

214. Any Master violating any rule made under section 134 shall be liable to a penalty not exceeding one hundred rupees.

For breach of rules under section 134.

215. If any account required by section 135 be false, the Master filling in or signing the same shall be liable to a penalty not exceeding five hundred rupees.

For signing false account.

216. On failure to produce the certificate mentioned in section 136, or to show sufficient reason for its non-production, the parties to the bond therein mentioned shall be bound to pay a penal sum equal to double the amount of Customs duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a Foreign Port.

For failure to produce certificate.

217. Any Master of a coasting vessel arriving at the port of discharge who fails, within twenty-four hours after arrival, to deliver a pass as required by section 138, shall be liable to a penalty not exceeding two hundred rupees.

For failure of Master of coasting vessel to deliver pass.

218. If, contrary to the provisions of this or any other Act relating to the Customs, any goods are laden on board of any vessel in any Port or place in British India and carried coastwise,

or any goods which have been brought coastwise are unladen in any such Port or place,

or any goods are found on board of any coasting vessel without being entered in the clearance thereof,

such goods shall be liable to confiscation, and the Master of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

For breach in respect of lading, carrying coastwise, and unlading.

219. The Master of any coasting vessel refusing to bring any document to the Officer in charge of the Custom House, when so required under section 140, shall be liable to a penalty not exceeding two hundred rupees.

For refusal to produce documents.

220. After the issue of a notification under section 141 with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation, and the owner or the person in charge of the boat shall be liable to a penalty not exceeding one hundred rupees.

Goods found in unlicensed cargo-boats may be confiscated.

221. Whoever wilfully contravenes any rule made under section 153 shall be liable to fine not exceeding five hundred rupees.

For contravening rules under section 153.

222. Whoever, not being authorized under section 155, acts as an agent for the transaction of business as therein mentioned, shall for every such offence be liable to a penalty not exceeding five hundred rupees.

For acting as agent without authority.

223. Whoever, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred rupees;

For irregularly re-landing spirituous liquors.

and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

224. Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter owner, or consignee, wilfully failing to comply with the provisions of section 157, shall be liable to a penalty not exceeding two hundred rupees.

For non-compliance with section 157.

225. Any goods put, without the authority of the Officers of Customs, on board of any tug-steamer or pilot-vessel from any sea-going vessel inward bound,

For Masters of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.

and any goods put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel,

and any goods on which drawback has been granted put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed,

shall be liable to confiscation, and the Master of such tug-steamer or pilot-vessel or sea-going vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

226. If any goods be landed or shipped,

For landing or shipping goods at unauthorized Port, &c.

or if an attempt be made to land or ship any goods,

or if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped

at any Port or place, which, at the date of such landing, shipment, attempt or bringing, has not been declared to be or does not exist as a Port for the landing and shipment of goods,

such goods shall be liable to confiscation, together with any ship, boat, carriage or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

227. Any person shipping or landing goods or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act;

For shipping, landing, concealing, &c., contrary to Act.

and any person found to have been on board of any vessel liable to confiscation under section 226 while such vessel is within any bay, river, creek, or arm of the sea which has not been declared to be, and is not existing as, a Port for the landing or shipment of goods,

shall be liable to a penalty not exceeding one thousand rupees.

228. All goods found on board any boat in excess of the boat-note or Custom-house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation.

Goods found in boat in excess of boat-note or pass liable to confiscation.

229. If any vessel which has been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the sea in British India, light or in ballast, and if the Master be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Vessels in Port with a cargo, and afterwards found in ballast and cargo unaccounted for, liable to confiscation.

230. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture.

Tackle, &c., included in confiscation of vessels.

The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof.

Packages and contents included in confiscation of goods.

Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Also conveyances and animals used in removal.

231. If any person in charge of or owning a vessel has become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse port-clearance to such vessel until the fine or penalty be discharged.

Goods may be detained and port-clearance refused, pending payment of fines incurred.

If any person passing goods through the Custom House has become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

232. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Persons reasonably suspected may be detained.

233. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs may be detained, in any place, either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

234. Every vessel and all goods seized on the ground that they are liable to confiscation shall, as soon as conveniently may be, be delivered into the care of the officer appointed to receive the same.

Vessels and goods seized how to be dealt with.

If there be no such officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure.

If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest office appointed by the Chief Customs Authority for the deposit of goods so seized.

235. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before a Magistrate or Officer in charge of a Custom House.

Persons detained to be taken to nearest Magistrate or Officer of Custom House.

236. When any person detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, is taken before a Magistrate, such Magistrate may, if he see reasonable cause, order him to be detained in gaol or in the custody of the Police for such time as is necessary to enable such Magistrate to communicate with the Officers of Customs:

Persons taken before a Magistrate for offence under Customs Acts may be detained or admitted to bail.

Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as such Magistrate appoints for his appearance.

237. If any person liable to be detained under this or any other Act relating to the Customs, is not detained at the time of committing the offence for which he so liable, or after detention, makes his escape, he shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Any person escaping may be afterwards detained.

238. When any person employed on the crew of any of Her Majesty's ships is detained under this or any other Act relating to the Customs, the detaining officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.

The Magistrate shall duly grant a warrant upon complaint made to him by the detaining officer, stating the offence for which the person is detained.

239. When any vessel or goods is or are seized or any person is detained under this or any other Act relating to the Customs, the Officer or other person making such seizure or detention, shall, on demand of the person in charge of the vessel or goods so seized or of the person so detained, give to such person a statement in writing of the reason for such seizure or detention.

When seizure is made, seizing officer to give reason in writing.

240. When any goods liable to confiscation under this or any other Act relating to the Customs are seized by any Police Officer on suspicion that they have been stolen, such Officer may carry such goods to any Police station or Court at which a complaint or information connected with the stealing or receiving of such goods has been made, or an enquiry connected with such stealing or receiving is in progress, and there detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting.

Procedure in respect of goods seized on suspicion.

In every such case the Police Officer seizing the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law.

If any Police Officer whose duty it is under this section to send a written notice or cause goods to be conveyed to a Custom House, neglects so to do, he shall be liable to a penalty not exceeding one hundred rupees.

For neglect of Police Officer to give notice.

241. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods; provided that he has reasonable ground to suppose that smuggled goods are contained therein.

Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

242. The Magistrate of a District or Division of a District may, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, issue a warrant to search for such goods.

Magistrate of District may issue, search-warrant on application.

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure.

243. Any Officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in

Persons may be searched on reasonable suspicion.

any Port in British India, or any person who has landed from any vessel or boat:

Provided that such officer has reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

If any person on board of any such vessel or boat, or who has landed from any such vessel or boat, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, affirms that he has not, and if any such goods are, after such denial, discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

For possession of smuggled goods.

244. When any Officer of Customs is about to search any person under the provisions of section 243 such person may require the said officer to take him, previous to search, before the nearest Magistrate or Officer in charge of a Custom House.

Persons before search may require to be taken before a Magistrate, &c.

If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or officer in charge of a Custom House.

The Magistrate or officer in charge of a Custom House before whom any person is so brought shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

245. If any Officer of Customs requires any person to be searched for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred rupees.

For searching persons on insufficient grounds.

246. If any Officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, he shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers, if guilty of breach of duty, how punishable.

247. If any Officer of Customs, or other person duly employed for the prevention of smuggling, practises or attempts to practise any fraud for the purpose of injuring the Customs Revenue, or abets or connives at any such fraud or any attempt to practise any such fraud, he shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers committing or conniving at frauds, how punishable.

248. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving him a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof.

No suit or proceeding to be commenced without notice.

249. Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such officer or person, shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both.

Punishment for obstruction to Customs Officers.

250. Whoever knowingly makes or signs or uses any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular;

For making false declaration, refusing to answer questions, &c.

and whoever, counterfeits, falsifies, or fraudulently alters or destroys any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs;

and whoever being required under this or any other Act relating to the Customs to produce any document, refuses or neglects to produce such document;

and whoever, being required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs, does not truly answer such question,

shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.

251. Whoever subscribes or attests any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee, be liable in every such case to a penalty not exceeding one thousand rupees.

For unauthorized declaration as to value of goods.

252. In every case in which, under this Act, any vessel, cart, or other means of conveyance, or any horse or other animal, is liable to confiscation;

Officer in charge of Custom House may adjudge confiscations and penalties.

or any goods are liable to confiscation or to increased rates of duty;

or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty,

an officer in charge of a Custom House, or if there be no such officer at the place where the confiscation or penalty or increased rates is or are incurred, or such other officer as the Local Government from time to time appoints in this behalf, may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of duty.

253. In respect to cases cognizable under section 252 by an Officer in charge of a Custom House, the Local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of duty.

Local Government may confer like powers on other officers of Customs.

Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand rupees, nor, as regards an Assistant Collector or other subordinate officer, to goods of a greater value than one hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty rupees, nor, as regards an Assistant Collector or other subordinate officer, to a sum exceeding ten rupees.

Proviso.

254. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods, is adjudged under section 252 or section 253, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty.

On confiscation of vessel or goods, property to vest in Her Majesty.

The Officer adjudging confiscation shall take and hold possession of the same, and every officer of Police, on the requisition of such Officer, shall assist him in taking and holding such possession.

255. In any case adjudicated by an Officer of Customs any party aggrieved by the award may, within three months from the date of the award, appeal to the Chief Customs Authority or in such cases as the Local Government directs to any other superior officer of Customs empowered in that behalf by the Local Government.

Appeal from subordinate to Chief Customs Authority.

Such authority or superior officer may thereupon make such further enquiry and pass such order as he thinks proper, confirming, altering, or annulling the original award:

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of duty than has been adjudged against him in the original award.

256. The award of any confiscation, penalty, or increased rates of duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby is liable under any other law.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

257. All offences against this Act, other than those cognizable under section 252 by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

Offences not specially provided for how to be adjudicated.

258. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act by an Officer of Customs or by a Magistrate, the Chief Customs Authority is of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.

259. When a penalty is adjudged against any person under this Act by any Officer of Customs, such Officer, if the penalty be not paid, may levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs.

How payment of penalty to be enforced.

When an Officer of Customs who has adjudged a penalty against any person under this Act fails to realize the unpaid amount of such penalty from the goods of such person, such officer may notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

260. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine:—

Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

If the penalty or fine do not exceed fifty rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed five hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

The Magistrate may at any time enforce payment of any penalty or fine or of any portion thereof by distress and sale of the defaulter's goods.

261. The imprisonment imposed in default of payment of fine or penalty under this or any other Act relating to the Customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

Imprisonment to terminate upon recovery of fine.

262. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty is paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

Or upon recovery of proportional part of fine.

263. Whenever confiscation is authorized by this Act, the officer adjudging it may give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

Option to pay fine in lieu of confiscation.

264. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a general Fund, out of which the Chief Customs Authority may grant a reward to any person by whose information, assistance, or instrumentality, any seizure has been made or any offence punished.

Appropriation of penalties, &c., and grant of rewards.

SCHEDULE.

PART I.

ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Number and year.	Title.	Extent of repeal.
V of 1838 ...	Bengal Bonded Warehouse Association Act ...	Section twenty-eight.
XXI of 1856 ...	An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.	Section eight. Sections ten to sixteen, both inclusive.
VI of 1863 ...	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.	The whole.
XX of 1867 ...	An Act to authorize the transhipment, without payment of Duty, of goods imported into Calcutta, Madras and Bombay by steamers.	The whole.
X of 1868 ...	An Act to amend the Consolidated Customs Act ...	The whole.
XVII of 1869 ...	An Act to shorten the time for landing cargo ...	The whole.
XVII of 1870 ...	An Act to amend the law relating to Customs Duties.	Sections two, four and five, and the proviso in section three.
XVIII of 1870 ...	An Act to enable the Government of India to exempt goods from Customs Duties.	The whole.
XIV of 1871 ...	An Act for the further amendment of the Consolidated Customs Act.	The whole.
VI of 1873 ...	An Act to amend the law relating to the Transhipment of Goods imported by Steamer, and for other purposes.	The whole.
XVI of 1875 ...	An Act to amend the law relating to Customs Duties, and for other purposes.	Sections six, seven and twelve.

SCHEDULE.—(*continued*).

PART II.

FORMS.

A

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(*See section* 68).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to comply with my request to be furnished with a license under The Consolidated Customs Act, 1877, for a warehouse situated at and about the distance of from the Custom House. The dimensions and other particulars of the godown are stated below. It is intended for the reception of all goods, as a general store-house (*or as the case may be*). The period of license not to exceed (*mention the time for which required*).

Particulars of godown.

	Feet. Inches.	
Length		Dry, airy, well flued and pakka-built; can contain with perfect safety and convenience tons of goods (*as the case may be.*)
Breadth		
Height		

This godown is my own property (*or the property of , from whom I have engaged the same on a lease of*)

(*Signed*) ( )

Name of Applicant.

Place
Date

B

FORM OF APPLICATION TO WAREHOUSE GOODS.

(*See section* 69).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to order the reception into the public warehouse (*or the private warehouse*) of Mr. *A. B.* situate at and licensed by No. dated , of the undermentioned goods arrived from (*Port or place to be mentioned*) on the (*British or other*) ship whereof is Master.

The Duty upon these goods has been adjusted in the manner specified below:—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs Duty.	Date and No. of importation.	Specification of the particulars of bonds if the Duty upon goods has been bonded.
1	2	3	4	5	6	7	8

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

C

FORM OF BOND FOR IMPORT DUTY.

(*See sections* 71 *and* 72).

BOND.

No. 18

We, *A. B.*,

now of

; and *C. D.*,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees to be paid to the said Secretary of State

for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(*Signed*)

The above bounden having applied to the Officer in charge of the Custom House at for and obtained permission to lodge in the warehouse for a period of the following good, that is to say— imported by Sea from on board of the ship and entered in the Custom House Books as No. of the Register of Goods imported by Sea;

The condition of this Bond is, that;

If the their heirs, or representatives, shall observe all the rules prescribed in The Consolidated Customs Act, 1877, to be observed by owners, importers, or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof;

And if the said their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the Port of all dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within

from the date of this Bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home-consumption or re-exportation by sea, the full amount of all Customs duties, warehouse dues, lawful charges and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals (*date*)

(*Signed*) ( )

D

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(*See section* 87).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to order to be passed from the public warehouse (*or private warehouse*) of Messrs. *A & Co.*, situate at and licensed under The Consolidated Customs Act, 1877, by No. dated , the undermentioned goods intended for exportation by Sea on the ship whereof is

Master and which is bound to (*or for internal consumption*), the same having been entered in the books of your office for the said warehouse, under No. dated by me (*or by Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods is herewith annexed).

Marks and No. of cases, *B. & Co.*, (*Name of the goods*). Nos. 1 to 4. □ × √ Sealed. Warehoused for exportation.	Four cases of (*name of goods*) 1 case (*box, bale, or parcel*) containing (*here insert the quantity in each case*). 1 Ditto. 1 Ditto. 1 Ditto. Four cases (*boxes, bales or parcels*) containing (*total contents to be here stated*).

The Custom House value of the above is Government rupees

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

E

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(*See section* 93).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to permit the removal of the undermentioned goods from the public (*or private*) warehouse (*describe the warehouse*) to (*the warehouse into which the removal is intended to be made must here be distinctly described*) for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of The Consolidated Customs Act, 1877, in the books of the Warehousing Department, No. , dated for fifteen months (*or such other period as may have been allowed*) under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods.	Amount of value of goods as entered in Custom House Books.	Rate of Duty chargeable or paid upon the goods.	Name of the persons by whom goods first passed into warehouse.
1	2	3	4	5	6	7

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

F

FORM OF SHIPPING BILL—(*See section* 109).

Shipping Bill ...
1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to duty.
5. Country goods not subject to duty.

(*State, as described, the class to which the goods to be exported belong*).

Ship's name.	Whether British or Foreign; if Foreign, the country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of packages.	Quantity, quality, and description of goods.	Rate of value for Duty.	Total value for Duty.	Declared real value under section 28.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12

Here state particulars according to the above headings.

I claim drawback on { *Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in Register of Custom House.*

I declare the value of the goods above described to be ( )

Name of Officer in charge of Custom House.

Name of Exporter or Agent,

Dated day of

Port of

FORM OF COASTING PASS—(*see section* 135.)

Ship's name.	Tonnage.	Port of Registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods, removed in bond.	Country goods.	Restricted goods and goods liable to duty of Excise.
1	2	3	4	5	6	7	8	9

(*Signed*) (*Name of Master.*)

Here state the particulars according to the above headings.

Cleared the day of 18

(*Signed*) (*Officer in charge of Custom House.*)

H

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See section* 143).

We,

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals, dated this day of 18

(*Signed*)

( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government rupees being the amount of duty payable at the rate of rupees per imperial gallon London proof, for gallons of (*or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed schedule*) manufactured at which the said have been allowed to remove thence for exportation by Sea, subject to the provisions of The Consolidated Customs' Act, 1877, without having paid such duty.

The condition of this obligation is, that, if the above bounden their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State duty at the rate of rupee per imperial gallon of proof spirits for all or any portion of the above-mentioned which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

Date

If the bond be for cordials and other liquors under section 150, *add*—

Schedule.

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1	2	3

I

FORM OF BONDED WAREHOUSE WARRANT.

(*See section* 101).

I do hereby certify that have deposited in the Warehouse of the undermentioned goods which goods, the engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

STATEMENT OF OBJECTS AND REASONS.

As long ago as 1870 the necessity of a thorough amendment of the Consolidated Customs Act (VI of 1863) was recognized, owing both to the additional legislation which had already taken place, and the numerous improvements which the various local authorities had represented to be necessary, chiefly in consequence of the altered conditions of trade.

Leave to introduce a Bill to consolidate and amend the law relating to Sea Customs was given by the Council of the Governor General for making Laws and Regulations to Sir Richard Temple on the 16th August 1870, but the measure was not proceeded with owing to difficulties connected with the application to India of 32 & 33 Vic., cap. II (for amending the law relating to the Coasting Trade and Merchant Shipping in British Possessions).

These difficulties appear, from further communication with Her Majesty's Secretary of State for India, to have been removed, and the Bill of 1870 is again brought forward, with the addition of the consolidation in it of the Acts specified in the margin, and of certain changes which have been recommended by the local authorities.

Act XIV of 1871.
Act VI of 1873.
Act XVI of 1875, in part.

Of those changes the chief are as follows:—

Provision is made (section 6) for the settlement of disputes as to the proper rate of duty payable in respect of any goods without detention of the goods during settlement.

Where a contract has been entered into for the sale of dutiable goods at a fixed price including the duty leviable at the date of the contract, and before the contract is fully performed the duty is raised or lowered, and levied accordingly, the Bill (section 33) declares that the price shall be increased or diminished (as the case may be) by the amount by which the duty is so raised or lowered. Where during transit by sea to British India the duty on any goods is raised, the duty payable on arrival will be only the duty in force when the transit commenced, and where such duty is lowered, the duty leviable will be only such reduced duty.

In the case of steamers the Bill provides (section 44) that the master may enter in the manifest the name of the ship's agent as that of the consignee of any cargo, and that the Chief Customs Authority may treat him as such consignee, provided he gives security against claims for damage or short delivery.

Power is given (section 46) to permit (subject to rules) bulk to be broken prior to receipt of the original manifest and the entry of the vessel at the Custom House.

For the purpose of landing import cargo and shipping export cargo no charge will be made (sections 50 and 108) for the services of several Customs Officers for respective periods, the aggregate of which does not exceed fifteen working days.

Power has been given (section 114) to grant port-clearance before delivery of the manifest when the ship's agent furnishes sufficient security for duly delivering it within three days from the date of the grant.

Whenever goods are confiscated the owner will have an option (section 263) to pay a fine in lieu of losing his goods.

It is expected that the Bill will be considerably improved in Committee in respect of numerous matters known to require attention, owing to the opening of the Suez Canal and the alterations effected by the telegraph in the conditions of modern trade, by suggestions of the various Maritime authorities, and by the co-operation of the mercantile community.

T. C. HOPE.

SIMLA;
The 26th October 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 25, 1876. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd November 1876:—

Telegram from Secretary of State, dated 6th December 1875.
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 624—16, dated 22nd February 1876, and enclosure.
" Officiating Secretary to Chief Commissioner, Oudh, No. 1226G, dated 15th March 1876, and enclosure.
" Government of Bengal, No. 1166J, dated 27th March 1876, and enclosure.
" " of Bombay, No. 365[redacted] dated 20th June 1876, and enclosures.
" " of Panjáb, No. 174C, dated 19th July 1876, and enclosures.
" J. G. W. Sykes, Esq., dated 21st July 1876.
" Chief Commissioner, British Burma, No. 1152—38, dated 27th July 1876, and enclosures.
Note by J. Pitt Kennedy, Esq., dated September 1876.

We, the undersigned Members of the Select Committee to which the Bill to define and amend the law relating to certain kinds of Specific Relief was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Preliminary.

2. In the interpretation-clause, we have omitted the definition of 'discretion,' the object of the definition being, we think, sufficiently attained by the first clause of section 21. We have amended the definition of 'obligation' so as to preclude the idea that only duties enforceable by the Criminal Courts were intended, and we have struck out the definition of 'agreement,' which does not harmonize with that contained in the Contract Act. To the illustrations of the definition of 'trustee,' we have added one showing that an employé receiving, without his employer's assent, commission on articles purchased for his employer, is a trustee of the commission so received. We have, lastly, declared that all words (such as 'contract') occurring in the Bill, which are defined in the Contract Act, shall have the meanings given them by that Act; and throughout the Bill we have used 'contract' for 'agreement' whenever a valid agreement is intended.

3. In section 4, we have struck out the clause rendering English law inapplicable to the kinds of relief dealt with by the Bill. For some time, at all events, the rules of the Bill

will have to be elucidated by reference to the decisions of the English Courts. To the same section we have added a clause saving the Registration Act, which might have been held to have been affected by some of the subsequent provisions of the Bill.

4. To the four kinds of specific relief enumerated in section 5, we have added a fifth—the appointing of a receiver; and, in a subsequent part of the Bill, we have dealt with this matter by reference to the revised Code of Civil Procedure.

Recovering possession of Property.

5. To the three cases mentioned in section 11, in which a person in possession, not as owner, of moveable property may be compelled to deliver it, we have added a fourth, namely, when the possession of the thing claimed has been wrongfully transferred from the claimant. For illustration (*b*), we have substituted the following:—"Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver it to A."

Specific Performance.

6. In section 12, we have struck out the clause relating to an express agreement between the parties to the contract that specific performance thereof may be required by either. It would, we fear, have been always inserted in agreements between money-lenders and land-holders, and might have been treated by the Courts as limiting the discretion which we intend to confer upon them. We have also struck out illustration (*e*), which goes further than we think desirable in enabling the Courts to compel persons to become partners.

7. Section 13 of the Bill as introduced provides (in strict accordance with English law) that when either party to an agreement is entitled to specific performance, the other party is also entitled to it. The Standing Counsel, Mr. Pitt Kennedy (to whom we are indebted for a valuable Note on the Bill), suggests that this would introduce a principle which found its place in Courts of Equity rather from a desire for symmetry than from its inherent utility. We feel the force of this objection, and we have therefore struck out the section.

8. We have inserted a clause (section 13 of Bill No. II) providing that, notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance. The illustrations appended to this new clause will sufficiently show its propriety.

9. Section 16 of the Bill as introduced forbids the specific performance of part of a contract except in cases coming under section 14 or section 15. We have also excepted cases where a part of the contract, which, taken by itself, can and ought to be specifically enforced, stands on a separate and independent footing from another part which cannot or ought not to be so enforced: see sections 16 and 17 of Bill No. II.

10. We think the case put first in section 21 of the Bill as introduced (agreements the terms of which the Court cannot find with reasonable certainty) comes more suitably among the cases specified in the previous section (now numbered 21), of agreements not specifically enforceable. We have, accordingly, transposed it. We have extended clause (*b*) of the latter section to agreements so dependent on the personal qualifications or volition of the parties that the Court cannot enforce specific performance of the material terms, and we have illustrated this by the case of an agreement to marry. Clause (*g*) of the same section in the Bill as introduced declares that a contract, the performance of which involves the performance of continuous duties over a longer period than five years from its date, shall not be specifically enforced. We have reduced this period to three years. We have forbidden specific performance of a contract of which a material part of the subject-matter, supposed by both parties to exist, has, before it has been entered into, ceased to exist. The rule of the Bill as introduced which precludes specific performance of contracts to refer to arbitration has been considered with reference to the English law and the decision of Phear, J., in *Koegler* v. *The Coringa Oil Company*, I. L. R. 1 Calc. 42 (which has been affirmed on appeal) on the one hand, and to the second paragraph of the first Exception to section 28 of the Contract Act and a recent decision of the Madras High Court (8 Mad. 56) on the other. We have come to the conclusion that the rule ought to be maintained; and we have expressly repealed the paragraph in question, embodying, however, in the Bill the provision that if any person who has entered into a contract to refer to arbitration and refuses to perform it, sues in respect of any subject which he has contracted to refer, the existence of the contract shall bar the suit, and saving such remedies as are provided in the Civil Procedure Code.

11. We have extended section 23, clause (*c*), to cases of compromise of doubtful rights between members of the same family.

12. In section 24, we have altered illustration (*b*), which the recent decision in *Dawson* v. *Oliver-Massey*, 2 Ch. Div. 753, has rendered doubtful, and added an illustration turning on uncertainty of fact.

13. To section 25, we have added an illustration showing that a person entering into a contract in the character of an agent cannot enforce specific performance when he is in reality acting on his own account.

14. Section 26 deals with cases in which the plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation. We have added the case in which the object of the parties is to produce a certain legal result which the contract as framed is not calculated to produce.

15. We have inserted a section (30) declaring that the provisions of the Bill as to specific performance of contracts shall apply, *mutatis mutandis*, to awards and to testamentary directions to execute settlements.

16. Where a decree for specific performance of a contract of sale has been made, we have empowered (section 35) the Court, by order in the suit in which such decree has been passed and not complied with, to rescind the contract, either so far as regards the party in default or altogether, as the justice of the case may require. We have added an illustration of clause (*a*) of the same section.

Cancellation of Instruments.

17. To the section (39) relating to the cancellation of instruments, we have added a clause empowering the Court, if the instrument has been registered, to cause the fact of the cancellation to be noted in the Registry Office.

Declaratory Decrees.

18. We think that the Courts should be barred from making declaratory decrees only in cases where the plaintiff, being able to seek further relief than a mere declaration of right, omits to do so. We see no sound reason for compelling a man, when others advance a claim to property which he believes to be his own, to wait till his evidence may be lost, to keep his arrangements for his family uncertain, or to suffer from a possibly serious diminution in the value of that property. We have therefore altered accordingly section 42 and illustration (*e*).

Enforcement of Public Duties.

19. We have, by section 45, confined the exercise of the power to make orders in the nature of a *mandamus* to the local limits of the ordinary original civil jurisdiction of the Presidency High Courts. We have restricted the power to apply for such orders to cases in which the applicant's property, franchise or personal right would be injured by the act complained of, and in which that act is clearly required by some law for the time being in force. And we have declared that the High Courts shall not make any order expressly excluded by some existing law.

Perpetual Injunctions.

20. We have struck out from section 54 the clause (analogous to that struck out of section 12) which permits the grant of a perpetual injunction where the parties have agreed in writing that, in case of invasion of the plaintiff's property, such injunction shall be granted. We have explained that, for the purpose of section 54, a trademark is property—a matter on which a recent case (*Singer Manufacturing Company* v. *Wilson*, 2 Ch. Div. 449) has thrown some doubt.

21. From section 56 we have struck out the clause forbidding the Courts to grant injunctions to prevent libels. Notwithstanding the present Lord Chancellor's decision in *Prudential Assurance Company* v. *Knott*, 44 L. J. Ch. 192, we do not see why breach of the obligation not to injure a man's reputation should not be restrained like the breach of any other obligation, and the provision in section 7 will prevent any clashing with the criminal law.

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22. We have, lastly, cancelled some of the illustrations and transposed or amended others. We think that the Bill has been so altered as to require republication, and we recommend that it be republished accordingly in the *Gazette of India* and the local Gazettes.

SIMLA;
The 27th October 1876.

A. HOBHOUSE.
T. C. HOPE.
F. R. COCKERELL.

No. II.

THE SPECIFIC RELIEF BILL, 1877.

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SCHEDULE.—Enactments repealed.

A Bill to define and amend the Law relating to certain kinds of Specific Relief.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits; It is hereby enacted as follows:— Preamble.

PART I.
PRELIMINARY.

1. This Act may be called "The Specific Relief Act, 1877:" Short title.
It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874; Local extent.
And it shall come into force at once. Commencement.

2. The Acts specified in the schedule hereto annexed are repealed to the extent mentioned in its third column. Repeal of enactments.

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

'obligation' includes every duty enforceable by law: 'obligation.'

'trust' includes every species of express, implied, or constructive fiduciary ownership: 'trust.'

'trustee' includes every person holding, expressly, by implication, or constructively, a fiduciary character: 'trustee.'

Illustrations.

(*a*). Z bequeaths land to A, 'not doubting that he will pay thereout an annuity of Rs. 1,000 to B for his life.' A is a trustee within the meaning of this Act for B to the extent of the annuity.

(*b*). A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B within the meaning of this Act of such advantage.

(*c*). A, being B's banker, discloses for his own purposes the state of B's account. A is a trustee within the meaning of this Act of the benefit gained by him by means of such disclosure.

(*d*). A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease.

(*e*). A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee within the meaning of this Act of the profit so made.

(*f*). A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(*g*). A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, of the land so bought.

(*h*). A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled: 'settlement.'

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act. Words defined in Contract Act.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed— Savings.

(*a*) to give any right to relief in respect of any agreement which is not a contract;

(*b*) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or

(*c*) to affect the operation of the Indian Registration Act on documents.

5. Specific relief is given— Specific relief how given.

(*a*) by taking possession of certain property and delivering it to a claimant;

(*b*) by ordering a party to do the very act which he is under an obligation to do;

(*c*) by preventing a party from doing that which he is under an obligation not to do;

(*d*) by declaring and determining the rights of parties otherwise than by an award of compensation; or

(*e*) by appointing a Receiver.

6. Specific relief granted under clause (*c*) of section 5 is called preventive relief.

Preventive relief.

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law.

Purposes for which relief cannot be given.

PART II.

OF SPECIFIC RELIEF.

CHAPTER I.

OF RECOVERING POSSESSION OF PROPERTY.

(a).—Possession of Immoveable Property.

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure.

Recovery of specific immoveable property.

9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit.

Suit by person dispossessed of immoveable property.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

(b).—Possession of Moveable Property.

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure.

Recovery of specific moveable property.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which another is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

Illustrations.

(*a*). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(*b*). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(*c*). A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(*d*). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under section 168 of the Indian Contract Act, 1872.

(*e*). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:—

Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

(*a*) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(*b*) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;

(*c*) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(*d*) when the possession of the thing claimed has been wrongfully transferred from the claimant.

Illustrations

of clause (*a*).—A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (*b*).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver it to A.

of clause (*c*).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(a). Contracts which may be specifically enforced.

12. Except as otherwise provided in this chapter, the specific performance of any contract may in the discretion of the Court be enforced—

Cases in which specific performance enforceable.

(*a*) when the act agreed to be done is in the performance, wholly or partly, of a trust;

(*b*) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done;

(*c*) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or

(*d*) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION.—Unless and until the contrary is shewn, it is to be presumed that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

Illustrations

of clause (*a*).—A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

A sells 500 tons of iron stacked on his wharf to B, in consideration of a bill accepted by C, and undertakes in writing to deliver the iron to bearer, he (A) 'having been paid for the same.' B mortgages the iron to D. The bill is dishonoured. A refuses to deliver the iron. A holds the iron as a trustee for D, and D may compel him specifically to perform his contract.

A advances Rs. 10,000 to B, and B contracts to execute a mortgage of certain houses 'with an immediate power of sale' to secure the repayment of the advance. A requires B either to pay off the advance at once or to execute the mortgage. B refuses. A is entitled to have the contract specifically performed.

of clause (*b*).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. The articles are of too special a character to bear an ascertainable market-value. A may compel B specifically to perform this contract, for it would be extremely difficult to ascertain the actual damage caused by its non-performance.

of clause (*c*).—A contracts with B to sell him a house for Rs. 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of incorporation, a railway company contracts with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000.

of clause (*d*).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

13. Notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance.

Contracts of which the subject has partially ceased to exist.

Illustrations.

(*a*). A contracts to sell a house to B for a lákh of rupees. The day after the contract is executed, the house is destroyed by a cyclone. B may be compelled to perform his contract by paying the purchase-money.

(*b*). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been entered into, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

14. Where a party to a contract is unable to perform the whole of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

Specific performance of part of a contract where the part unperformed is small.

Illustrations.

(*a*). A contracts to sell B a piece of land consisting of 100 bighás. It turns out that 98 bighás of the land belong to A, and the two remaining bighás to a stranger, who refuses to part with them. The two bighás are not necessary for the use or enjoyment of the 98 bighás, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bighás and to make compensation to him for not conveying the two remaining bighás; or B may be directed, at the suit of A, to pay to A on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(*b*). In a contract for the sale and purchase of a house and lands for two lákhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

15. Where a party to a contract is unable to perform the whole of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, the party in default is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of the contract as he can perform, provided that the party seeking specific performance relinquishes all claim to further performance, and all right to compensation, either for the deficiency, or for the loss or damage sustained by him through the default of the other party.

Specific performance of part of a contract where the part unperformed is large.

Illustrations.

(*a*). A contracts to sell to B a piece of land consisting of 100 bighás. It turns out that 50 bighás of the land belong to A, and the other 50 bighás to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bighás which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 bighás to him on payment of the purchase-money.

(*b*). A contracts to sell to B an estate with a house and garden for a lákh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

Specific performance of independent part of a contract.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

Bar in other cases of specific performance of part of contract.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (ex-

Purchaser's rights against vendor with imperfect title.

cept as otherwise provided by this chapter) has the following rights:—

(*a*) if the vendor or lessor has subsequently acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

(*b*) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;

(*c*) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and obtain a conveyance from the mortgagee;

(*d*) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to the costs of the suit, and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

Power to award compensation in certain cases.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstance that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

Illustrations

of the second paragraph:—A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it without excuse to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph:—A agrees with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may, besides ordering specific performance, award to B compensation for any loss or damage which he has sustained by A's refusal.

of the Explanation:—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

Liquidation of damages not a bar to specific performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Illustration.

A contracts to grant B an underlease of property held by A under C, and that if C refuses to grant a license necessary for that purpose, A will pay B Rs. 10,000. A refuses to apply for the license and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced.

(*b*). *Contracts which cannot be specifically enforced.*

Contracts not specifically enforceable.

21. The following contracts cannot be specifically enforced:—

(*a*) a contract for the non-performance of which compensation in money is an adequate relief;

(*b*) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;

(*c*) a contract the terms of which the Court cannot find with reasonable certainty;

(*d*) a contract which is in its nature revocable;

(*e*) a contract entered into by trustees either in excess of their powers or in breach of their trust;

(*f*) a contract entered into by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers;

(*g*) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;

(*h*) a contract of which a material part of the subject-matter, supposed by both parties, to exist has, before it has been entered into, ceased to exist.

And save as provided by Chapter XXXVII of the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced; but if any person who has entered into such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

Illustrations

to (*a*).—A contracts to sell, and B contracts to buy, a lákh of rupees in the four per cent. loan of the Government of India.

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second both A and B, and in the third A, would be reimbursed by compensation in money.

to (*b*).—A contracts to render personal service to B:

A contracts to employ B on personal service:

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed.

By a charter party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London.

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery.

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B.

A contracts with B to execute certain works which the Court cannot superintend.

A contracts to supply B with all the goods of a certain class which B may require.

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above agreements cannot be specifically enforced.

to (*c*).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (*d*).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (*e*).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lákh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (*f*).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (*g*).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (*h*).—A contracts to pay an annuity to B for the lives of C and D. It turns out that, at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(*c*). *Of the Discretion of the Court.*

Discretion as to decreeing specific performance.

22. The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

Illustrations.

(*a*). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance. If B knew the fact, and C did not, specific performance should be refused to B.

(*b*). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact the value of C's interest depends on the result of certain partnership-accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(*c*). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance should be refused to A.

(*d*). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendor's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance should be refused to B.

II. Where the performance of the agreement would involve some hardship on the defendant which he did not foresee, whereas no such hardship would fall on the plaintiff if the agreement was not performed.

Illustrations.

(*e*). A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here, the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(*f*). A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(*g*). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(*h*). A contracts with B to sell him certain land, and to make a road to it from a certain railway-station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(*i*). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance should be refused to B.

(*j*). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(*k*). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the agreement should be refused to B.

III. The circumstance that the plaintiff has done substantial acts or suffered losses in consequence of a contract susceptible of specific performance is one which the Court may reasonably consider in exercising its discretion to grant specific performance of such contract.

Illustration.

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be awarded in favour of A.

(d). For whom Contracts may be specifically enforced.

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

Who may obtain specific performance.

(*a*) any party thereto;

(*b*) the representative in interest, or the principal, of any party thereto: provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract;

(*c*) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;

(*d*) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(*e*) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(*f*) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(*g*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*h*) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(e). For whom Contracts cannot be specifically enforced.

24. A contract for the sale or letting of property, whether moveable or immoveable, cannot be specifically enforced in favour of a vendor or lessor—

Contracts to sell property by one who has no title, or who is a voluntary settler.

(*a*) who, knowing himself not to have any title to the property, has contracted to sell or let the same;

(*b*) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;

(*c*) who, previous to entering into the contract, has made a settlement of its subject-matter not founded on a valuable consideration.

EXPLANATION.—Marriage is a valuable consideration within the meaning of this section.

Illustrations.

(*a*). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(*b*). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(*c*). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(*d*). A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

25. Specific performance of a contract cannot be enforced in favour of a person—

Personal bars to the relief.

(*a*) who could not recover compensation for its breach;

(*b*) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed; or

(*c*) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;

(*d*) who, previously to entering into the agreement, had notice that a settlement of the subject-matter thereof, not founded on marriage or other valuable consideration, had been made and was then in force.

Illustrations

to clause (*a*).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (*b*).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (*c*).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach of contract. A cannot obtain specific performance.

(f). For whom Contracts cannot be specifically enforced except with a variation.

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):—

Non-enforcement except with variation.

(*a*) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(*b*) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(*c*) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(*d*) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(*e*) where the parties have, subsequently to the execution of the contract, contracted to vary it.

Illustrations.

(*a*). A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(*b*). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(*c*). A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(*d*). A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(*e*). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place: B contracting orally to pay rent at Rs. 120 per mensem. B then sues to compel specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(g). Against whom Contracts may be specifically enforced.

27. Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

Relief against parties and persons claiming under them by subsequent title.

(*a*) either party thereto;

(*b*) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value, who has paid his money in good faith and without notice of the original contract;

(*c*) any person claiming under a title which, though prior to the contract, and known to the plaintiff, might have been displaced by the defendant;

(*d*) when a public company has entered into a contract, and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*e*) when the promoters of a public company have, before its incorporation, entered into a contract, the company: provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

Illustrations

to clause (*b*).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,000. A afterwards conveys the land for Rs. 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,000. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce the contract against C.

A contracts in consideration of Rs. 1,000, to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce the contract against C.

A contracts to sell certain land to B. Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

to clause (*c*).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(*h*). *Against whom Contracts cannot be specifically enforced.*

28. Specific performance of a contract cannot be enforced against a party thereto in any of the following cases :—

What parties cannot be compelled to perform.

(*a*) if the consideration to be received by him is so grossly inadequate, with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff ;

(*b*) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled ;

(*c*) if his assent was given under the influence of mistake of fact, misapprehension or surprise : Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision, and the contract may be specifically enforced in other respects if proper to be so enforced.

Illustrations

to clause (*c*).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighás of this land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

(*i*). *The Effect of dismissing a Suit for Specific Performance.*

29. The dismissal of a suit for specific performance of a contract shall bar the plaintiff's right to sue for the breach of such contract.

Bar of suit for breach after dismissal.

(*j*). *Awards and Directions to execute Settlements.*

30. The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

Application of preceding sections to awards and testamentary directions to execute settlements.

CHAPTER III.

OF THE RECTIFICATION OF INSTRUMENTS.

31. When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons, in good faith and for value.

When instrument may be rectified.

Illustrations.

(*a*). A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included.

Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud.

The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(*b*). By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement, and decree that the assignee has no right to any part of the annuity.

32. For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Presumption as to intent of parties.

33. In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Principles of rectification.

34. A contract in writing may be first rectified and then, if the plaintiff has so prayed in his plaint and the Court thinks fit, specifically enforced.

Specific enforcement of rectified contract.

Illustration.

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs.

The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

CHAPTER IV.

OF THE RESCISSION OF CONTRACTS.

35. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court, in any of the following cases, namely :—

When rescission may be adjudged.

(*a*) where the contract is voidable or terminable by the plaintiff ;

(*b*) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff ;

(*c*) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so

far as regards the party in default, or altogether, as the justice of the case may require.

Illustrations

to (*a*).—A sells an estate to B. There is a right of way over the estate of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (*b*).—A, an attorney, induces B, his client, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

36. Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Rescission for mistake.

37. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled ; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

Alternative prayer for rescission in suit for specific performance.

38. On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

Court may require party rescinding to do equity.

CHAPTER V.

OF THE CANCELLATION OF INSTRUMENTS.

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

When cancellation may be ordered.

If the instrument has been registered, under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Illustrations.

(*a*). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(*b*). A conveys land to B, who bequeaths it to C and dies. Thereupon, D gets possession of the land, and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(*c*). A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1875. Soon after that day, A fraudulently grants to C a lease of part of the lands dated the 1st October 1874, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(*d*). A agrees to sell and deliver a ship to B, to be paid for by B's acceptances of four bills of exchange, for sums amounting to Rs. 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

What instruments may be partially cancelled.

Illustration.

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

Power to require party for whom instrument is cancelled to make compensation.

CHAPTER VI.

OF DECLARATORY DECREES.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief.

Discretion of Court as to declarations of status or right.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of right, omits to do so.

Bar to such declaration.

EXPLANATION.—A trustee of property is a person interested to deny a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Illustrations.

(*a*). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(*b*). A bequeaths his property to B, C and D, 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(*c*). A covenants that if he should at any time be entitled to property exceeding one lákh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(*d*). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(*e*). The widow of a sonless Hindú alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow's lifetime.

(*f*). A Hindú widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death, without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(*g*). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(*h*). A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

Effect of declaration.

43. A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

Illustration.

A, a Hindú, in a suit to which B, his alleged wife, and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

CHAPTER VII.

OF THE APPOINTMENT OF RECEIVERS.

Appointment of receivers discretionary.

44. The appointment of a Receiver pending a suit is a matter resting in the discretion of the Court.

Reference to Code of Civil Procedure.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

CHAPTER VIII.

OF THE ENFORCEMENT OF PUBLIC DUTIES.

Power to order public servants and others to do certain specific acts.

45. Any of the High Courts of Judicature at Fort William, Madras and Bombay may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature: provided—

(*a*) that an application for such order be made by some person whose property, franchise, or personal right, would be injured by the forbearing or doing (as the case may be) of the said specific act;

(*b*) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;

(*c*) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice;

(*d*) that the applicant has no other specific and adequate legal remedy; and

(*e*) that the remedy given by the order applied for will be complete.

Exemptions from such power.

Nothing in this section shall be deemed to authorize any High Court—

(*f*) to make any order binding on the Secretary of State for India in Council, on the Governor General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal;

(*g*) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown; or

(*h*) to make any order which is otherwise expressly excluded by any law for the time being in force.

Application how made.

46. Every application under section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof; and the High Court may, in its discretion, either make the order applied for absolute in the first instance, or refuse it and grant a rule to show cause why the order applied for should not be made.

Procedure thereon.

Order in alternative.

If, in the latter case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

Peremptory order.

47. If the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

Execution of, and appeal from, orders.

48. Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

Costs.

49. The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

Bar to issue of *mandamus*.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

Power to frame rules.

51. Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.

PART III.

OF PREVENTIVE RELIEF.

CHAPTER IX.

OF INJUNCTIONS GENERALLY.

Preventive relief how granted.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

Temporary injunctions.

53. Temporary injunctions are such as are to continue until a specified time. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

Perpetual injunctions.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

CHAPTER X.

OF PERPETUAL INJUNCTIONS.

Perpetual injunctions when granted.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When such obligation arises from an actual or threatened invasion by the defendant of the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely)—

(*a*) where the obligation arises from a trust;

(*b*) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

(*c*) where the invasion is such that pecuniary compensation would not afford adequate relief;

(*d*) where it is probable that pecuniary compensation cannot be got for the invasion;

(*e*) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

Illustrations.

(*a*). A lets certain land to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(*b*). A trustee threatens a breach of trust. His co-trustees, if any, should, and the beneficial owners may, obtain an injunction to prevent the breach.

(*c*). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may obtain an injunction to restrain them.

(*d*). The directors of a fire and life-insurance company are about to engage in marine insurances. Any of the shareholders may obtain an injunction to restrain them.

(*e*). A, an executor, through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(*f*). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(*g*). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(*h*). In the course of A's employment as a vakil, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(*i*). A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(*j*). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from doing so.

(*k*). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(*l*). A, B and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(*m*). A, a Hindú widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(*n*). A, B and C are members of an undivided Hindú family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(*o*). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(*p*). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(*q*). A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(*r*). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(*s*). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(*t*). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(*u*). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(*v*). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(*w*). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(*x*). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(*y*). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(*z*). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process as being a thing contrary to his duty.

Mandatory injunctions.

55. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforc-

ing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

Illustrations.

(*a*). A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(*b*). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(*c*). In the case put as illustration (*i*) to section 54, the Court may also order all written communications made by B, as patient, to A, as physician, to be destroyed.

(*d*). In the case put as illustration (*y*) to section 54, the Court may also order A's letters to be destroyed.

(*e*). A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(*f*). A, being B's medical adviser, threatens to publish B's communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(*g*). In the cases put as illustrations (*v*) and (*w*) to section 54, and as illustrations (*e*) and (*f*) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements and communications therein respectively mentioned, to be given up or destroyed.

Injunction when refused.

56. An injunction cannot be granted—

(*a*) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(*b*) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(*c*) to restrain persons from applying to any legislative body;

(*d*) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(*e*) to stay proceedings in any criminal matter;

(*f*) to prevent the breach of an agreement the performance of which would not be specifically enforced;

(*g*) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(*h*) to prevent a continuing breach in which the applicant has acquiesced;

(*i*) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(*j*) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(*k*) where the applicant has no personal interest in the matter.

Illustrations.

(*a*). A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(*b*). A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(*c*). A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one and he cannot obtain an injunction.

Injunctions to perform negative agreement.

57. Notwithstanding section 56, clause (*f*), where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

Illustrations.

(*a*). A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000, but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(*b*). A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(*c*). A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of entertainment.

(*d*). B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival house as clerk.

(*e*). A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

SCHEDULE.

(*See section* 2.)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1859	Civil Procedure	Sections 15 and 192.
XIV of 1859	Limitation	Section 15.
IX of 1872	Contract	In section 28, the second clause of Exception 1.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 2, 1876. { Register No. 33.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th November 1876, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 13 of 1876.

A Bill to amend the law relating to Treasure-trove.

Preamble.

WHEREAS it is expedient to amend the law relating to treasure-trove; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Treasure-trove Act, 1877:"

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."

"treasure" includes gold-coin, silver-coin, bullion, gold and silver in a manufactured state, precious stones and other valuable property;

"Collector."

"Collector" means (1) the Collector of a District, (2) a Deputy Commissioner, and (3) any officer appointed by the Local Government to perform the functions of a Collector under this Act.

Procedure on finding Treasure.

Notice by finder of treasure.

4. Whenever any treasure exceeding in amount or value twenty-five rupees is found buried in the earth or otherwise concealed, the finder shall, as soon as practicable, give to the Collector notice in writing—

(*a*) of the nature, amount or approximate value of the treasure so found;

(*b*) of the place in which it was found;

(*c*) of the date of the finding;

and shall either deposit the treasure in the Government Treasury, or give the Collector such security as he thinks fit to produce the treasure at such time and place as he may from time to time require.

Collector's procedure on receipt of notice.

5. On receiving a notice under section four, the Collector shall 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 at a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof or any interest therein, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than six months after the date of the publication of such notice;

(*b*) where the place in which the treasure was 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.

Power to declare intention to acquire the treasure on behalf of Government.

6. The Collector may, at any time before the day so notified, by writing under his hand declare his intention to acquire on behalf of Government the said treasure or any specified portion thereof, by payment to the persons interested therein

of a sum equal to the intrinsic value of the said treasure or portion, and to one-fifth of such value; and thereupon, subject to the payment aforesaid, the said treasure or portion shall be deemed to be the property of Government.

Procedure on enquiry into value of treasure and persons entitled thereto.

7. On the day notified under section five, the Collector shall cause the treasure to be produced before him, and shall proceed to inquire into the value of the treasure, and (subject to the rules hereinafter prescribed) to determine the persons interested therein, and the amount payable to them respectively.

For the purpose of such enquiry, the Collector may summon and enforce the attendance of witnesses, and compel the production of documents, by the same means, and (as far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure; and the Collector may, if no claimant attends pursuant to the notice, or if, for any other cause, he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Rules for guidance of Collector.

8. In determining claims under this Act, and the amount to which the claimants are entitled, the Collector shall be guided by the following rules (namely):—

(*a*) if there is reason to think that the treasure was concealed more than one hundred years before the date of the finding, he shall not admit the claim of any person other than the finder of the treasure and the owner of the place in which the treasure was found;

(*b*) if the treasure was found in the process of executing some work (such as a road, a railway or a canal) for the benefit of the public, and if there be no claimant other than the finder, three-fourths of the amount, or, if the Collector prefers, the value of the treasure, shall be awarded to the finder and the residue to the Government;

(*c*) if the treasure was found in a place belonging to a private person, and such person and the finder have not entered into any agreement then in force as to the allotment of the treasure, three-fourths of the treasure shall be allotted to the finder and the residue to the owner of the place in which it was found. If such owner and the finder have entered into any such agreement, the treasure shall be allotted in accordance therewith;

(*d*) if the Collector has, under section six, declared his intention to acquire the whole or any portion of the treasure, the Collector shall (notwithstanding anything contained in clauses (*a*), (*b*) and (*c*) of this section) give effect to such declaration, and in such case the provisions of the same clauses as to the treasure shall be deemed to apply to the payment to be made for such treasure or portion in accordance with section six.

Bar of appeal against decision of Collector and of suits against him for acts done bond fide.

9. There shall be no appeal against any decision of the Collector under this Act, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Penalties.

Penalty on finder failing to give notice, etc.

10. If the finder of any treasure to which this Act applies, fails to give the notice, or to make the deposit or give security, required by section four, the share of such treasure or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government,

and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and, in default of payment, to imprisonment for a term which may extend to twelve months.

Penalty on owner abetting offence under section 10.

11. If the owner of the place in which any treasure to which this Act applies is found abets within the meaning of the Penal Code, any failure to give the notice, or to make the deposit, or give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government,

and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and, in default of payment, to imprisonment for a term which may extend to six months.

SCHEDULE.

Number and date of enactments.	Title.	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 1835	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 Panjáb, and for other purposes.	So far as regards Bengal Reg. V of 1817.
Act XV of 1874	Laws Local Extent	The second schedule so far as regards Madras Reg. XI of 1832. The fourth schedule so far as regards Bengal Reg. V of 1817.
Act XVII of 1876	An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.	So far as regards Bengal Reg. V of 1817.
Act XX of 1876	An Act to declare and amend the law in force in the Central Provinces.	Ditto.
Act XVIII of 1876.	Oudh Laws Act	Ditto.

STATEMENT OF OBJECTS AND REASONS.

The law of treasure-trove is in a very unsatisfactory state. At present there is one law in Madras and another in Bengal, while it is doubtful what the law is in Bombay, and in the three Presidency towns probably the English law prevails. Moreover, the law everywhere is bad and ineffective, and gives every inducement to finders to conceal or make away with their discoveries; and yet there is a good deal treasure buried in India, and much of it of very high antiquarian and historical interest.

2. Under these circumstances, the present Bill has been prepared. It provides, among other things, that—

(*a*) the finder shall give notice to the Collector of the District of the discovery of treasure, and either deposit the treasure in the Government Treasury, or give security for producing it when required;

(*b*) notice shall be given by the Collector to the owner or owners of the land where the treasure was found;

(*c*) the discovery of the treasure shall be advertised, and all claimants desired to come forward within six months;

(*d*) if there is reason to believe that the treasure was hidden or deposited more than a hundred years previously, no claim of any outside person shall be admitted;

(*e*) in the case of treasure found in a public place, such as in digging a road, a railway, or a canal, the treasure shall vest, if more than a hundred years old, or if unclaimed, in the proportion of three-fourths in the finder and one-fourth in Government; and

(*f*) if the land or other property on which the treasure is found belongs to a private party, then the latter shall receive the Government share, unless the finder has made any previous agreement with such owner or owners, in which case the division shall be regulated according to that agreement.

3. The Bill adopts the principle of certain recent legislation in the north of Europe, which has practically worked well.

E. C. BAYLEY.

Calcutta, 22nd November 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 9, 1876. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th November 1876, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 18 OF 1876.

A Bill 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, 1877:" Short title.

It extends to the whole of British India; Extent.

And it shall come into force at once. Commencement.

2. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule. Repeal of enactments.

3. In this Act— Interpretation-clause.

"treasure" includes gold coin, silver coin, bullion, gold and silver in a manufactured state, precious stones and other valuable property; "Treasure."

"Collector" means (1) the Collector of a District, (2) a Deputy Commissioner, and (3) any officer appointed by the Local Government to perform the functions of a Collector under this Act. "Collector."

Procedure on finding Treasure.

4. Whenever any treasure exceeding in amount or value twenty-five rupees is found buried in the earth or otherwise concealed, the finder shall, as soon as practicable, give to the Collector notice in writing— Notice by finder of treasure.

(*a*) of the nature, amount or approximate value of the treasure so found;

(*b*) of the place in which it was found;

(*c*) of the date of the finding;

and shall either deposit the treasure in the 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 take the following steps (namely):— Collector's procedure on receipt of notice.

(*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 at a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof or any interest therein, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than six months after the date of the publication of such notice;

(*b*) where the place in which the treasure was 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. The Collector may, at any time before the day so notified, by writing under his hand declare his intention to acquire on behalf of Government the said treasure or any specified portion thereof, by payment to the persons interested therein Power to declare intention to acquire the treasure on behalf of Government.

of a sum equal to the intrinsic value of the said treasure or portion, and to one-fifth of such value; and thereupon, subject to the payment aforesaid, the said treasure or portion shall be deemed to be the property of Government.

Procedure on enquiry into value of treasure and persons entitled thereto.

7. On the day notified under section five, the Collector shall cause the treasure to be produced before him, and shall proceed to inquire into the value of the treasure, and (subject to the rules hereinafter prescribed) to determine the persons interested therein, and the amount payable to them respectively.

For the purpose of such enquiry, the Collector may summon and enforce the attendance of witnesses, and compel the production of documents, by the same means, and (as far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure; and the Collector may, if no claimant attends pursuant to the notice, or if, for any other cause, he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Rules for guidance of Collector.

8. In determining claims under this Act, and the amount to which the claimants are entitled, the Collector shall be guided by the following rules (namely):—

(*a*) if there is reason to think that the treasure was concealed more than one hundred years before the date of the finding, he shall not admit the claim of any person other than the finder of the treasure and the owner of the place in which the treasure was found;

(*b*) if the treasure was found in the process of executing some work (such as a road, a railway or a canal) for the benefit of the public, and if there be no claimant other than the finder, three-fourths of the amount, or, if the Collector prefers, the value of the treasure, shall be awarded to the finder and the residue to the Government;

(*c*) if the treasure was found in a place belonging to a private person, and such person and the finder have not entered into any agreement then in force as to the allotment of the treasure, three-fourths of the treasure shall be allotted to the finder and the residue to the owner of the place in which it was found. If such owner and the finder have entered into any such agreement, the treasure shall be allotted in accordance therewith;

(*d*) if the Collector has, under section six, declared his intention to acquire the whole or any portion of the treasure, the Collector shall (notwithstanding anything contained in clauses (*a*), (*b*) and (*c*) of this section) give effect to such declaration, and in such case the provisions of the same clauses as to the treasure shall be deemed to apply to the payment to be made for such treasure or portion in accordance with section six.

Bar of appeal against decision of Collector and of suits against him for acts done *bonâ fide*.

9. There shall be no appeal against any decision of the Collector under this Act, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Penalties.

Penalty on finder failing to give notice, make deposit or give security.

10. If the finder of any treasure to which this Act applies fails to give the notice, or to make the deposit, or to give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government,

and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and, in default of payment, to imprisonment for a term which may extend to twelve months.

Penalty on owner abetting offence under section 10.

11. If the owner of the place in which any treasure to which this Act applies is found abets, within the meaning of the Penal Code, any failure to give the notice, make the deposit, or give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government,

and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and, in default of payment, to imprisonment for a term which may extend to six months.

SCHEDULE.

Number and date of enactments.	Title.	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 Panjáb, and for other purposes.	So far as regards Bengal Reg. V of 1817.
Act XV of 1874...	Laws Local Extent ...	The second schedule so far as regards Madras Reg. XI of 1832. The fourth schedule so far as regards Bengal. Reg. V of 1817.
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 Reg. 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.

STATEMENT OF OBJECTS AND REASONS.

The law of treasure-trove is in a very unsatisfactory state. At present, there is one law in Madras and another in Bengal, while it is doubtful what the law is in Bombay, and in the three Presidency towns probably the English law prevails. Moreover, the law everywhere is bad and ineffective, and gives every inducement to finders to conceal or make away with their discoveries; and yet there is a good deal of treasure buried in India, and much of it (if we may judge by what has already been found) of very high antiquarian and historical interest.

2. Under these circumstances, the present Bill has been prepared. It provides, among other things, that—

(*a*) the finder shall give notice to the Collector of the District of the discovery of treasure, and either deposit the treasure in the Government Treasury, or give security for producing it when required;

(*b*) notice shall be given by the Collector to the owner or owners of the land where the treasure was found;

(*c*) the discovery of the treasure shall be advertised, and all claimants desired to come forward within six months;

(*d*) if there is reason to believe that the treasure was hidden or deposited more than a hundred years previously, no claim of any outside person shall be admitted;

(*e*) in the case of treasure found in a public place, such as in digging a road, a railway, or a canal, such treasure shall vest, if more than a hundred years old, or if unclaimed, in the proportion of three-fourths in the finder and one-fourth in Government; and

(*f*) if the land or other property on which the treasure is found belongs to a private party, then the latter shall receive the Government share, unless the finder has made any previous agreement with such owner or owners, in which case the division shall be regulated according to that agreement.

3. The Bill adopts the principle of certain recent legislation in the north of Europe, which has practically worked well.

E. C. BAYLEY.

Calcutta, 22nd November 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th December 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 14 OF 1876.

THE BURMA FOREST BILL, 1877.

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SCHEDULE—ACTS REPEALED.

A Bill to consolidate and amend the law relating to the management and preservation of Government forests in the province of British Burma.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the management and preservation of Government forests in the province of British Burma, to the transit of forest-produce through the said province, and to the duty leviable on timber imported thereinto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Burma Forest Act, 1877:"

Local extent.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma;

Commencement.

And it shall come into force on such date as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the *British Burma Gazette*, direct.

Repeal.

2. On and from such date the Acts mentioned in the schedule hereto annexed, and all rules made under or validated by any of the said Acts, shall, except as provided by section 24, be repealed, but not so as to affect any thing duly done under any such Act or Rules.

Interpretation-clause.

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

"Forest officer." "Forest officer" means any person whom the Chief Commissioner may from time to time appoint by name, or as holding an office, to do

(1) anything required by this Act to be done by a Forest officer;

(2) anything to be done by a Government officer under this Act, or under any rule made under this Act, and for the doing of which no agency is specially provided by this Act:

"Tree." "Tree" includes bamboos and brushwood:

"Timber." "Timber" includes trees and bamboos when they have fallen or have been felled, and all wood when cut up, or when fashioned or hollowed out for cart-wheels, mortars, canoes, or other purposes:

"Forest-produce." "Forest-produce" includes the following when found in, or brought from, a forest, that is to say—

limestone, laterite and other minerals and surface-soil, trees, timber, grass, reeds, leaves, flowers, fruits, juice, bark, honey, wax, lac, gum, wood-oil, resin and varnish:

"Forest-offence." "Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"Cattle." "Cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"River." "River" includes streams, canals, creeks and other channels, natural or artificial.

CHAPTER II.

OF RESERVED FORESTS.

Power to reserve forests.

4. The Chief Commissioner may from time to time constitute any forest a reserved forest in manner hereinafter provided. Reserved forests, unless assigned to villages as provided in section 27, may be called State forests.

Demarcation of boundaries.

5. Whenever it is proposed to constitute any forest a reserved forest, and the limits of such forest have not been defined by boundary-marks, and are not, in the opinion of the Chief Commissioner, already sufficiently marked by roads, rivers, or other such boundaries, the Chief Commissioner may cause such limits to be demarcated in such manner as he thinks fit.

Notification by Chief Commissioner.

6. When the Chief Commissioner has ascertained that the limits of such forest are already sufficiently defined or marked as aforesaid, or when such limits have been demarcated under section 5, he may publish a notification in the *British Burma Gazette*—

(*a*) declaring that it is proposed to reserve such forest under this Act;

(*b*) specifying the limits of such forest;

(*c*) appointing an officer (hereinafter called "the Forest Settlement Officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person to or over any land comprised within such limits, or to or over any forest-produce; and

(*d*) appointing three persons (hereinafter called "the Forest Court") to hear appeals from the decisions of such officer.

Bar of accrual of forest-rights.

7. During the interval between the publication of such notification and the date fixed by the notification under section 18, no right shall be acquired to, over, or in respect of, the forest comprised in such notification, except under a grant or contract in writing made or entered into by or on behalf of Government or of some person in whom such right was vested when the former notification was issued, and no fresh gardens or toungyas shall be cut in such forest.

Proclamation by Forest Settlement Officer.

8. When a notification has been issued under section 6, the Forest Settlement Officer shall publish in every town and village in the neighbourhood of the forest mentioned therein a proclamation in the language of the country—

(*a*) specifying the limits of such forest,

(*b*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right as aforesaid, to present to such officer within such period a written notice stating the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

Rights not claimed, extinguished.

9. Any such right in respect of which no such notice is presented within the said period shall be deemed to be extinguished.

Power to acquire land over which right is claimed.

10. When any such notice is presented as aforesaid, the Forest Settlement Officer shall inquire into the merits of the claim, and may, if he considers it proved and if he thinks fit to do so, in the case of a claim to or over any land, pass an order to that effect and proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870, or, in the case of a claim to rights of way or of pasture, or to forest-produce, proceed in the manner prescribed in sections 11 and 12.

For the purpose of so acquiring such land—

(*a*) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(*b*) the claimant shall be deemed to be a person interested and attending before him in pursuance of a notice issued under section 9 of that Act, and

(*c*) the conditions prescribed by the preceding sections of that Act shall be deemed to have been fulfilled.

Enquiry into claims.

11. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall enquire into the nature and extent of such rights, and shall pass an order, admitting, rejecting or modifying the claim.

Record to be made by Forest Settlement Officer.

12. The Forest Settlement Officer, when passing any such order, shall record the name, residence and occupation of the person claiming the right, the designation (if any), position and area of all fields or groups of fields, and the designation and position of all buildings, in respect of which the exercise of such rights is claimed.

No such claim shall be admitted, unless

(*a*) the claimant was, at the time when the limits of the forest were notified under section 6, in the habitual exercise of the right claimed, and

(*b*) unless the exercise of the right is required for the beneficial use of the land or premises, or of the person claiming the same.

Record where he admits claim.

13. If the Forest Settlement Officer admits any such claim with or without modification, he shall also record the extent to which such rights have been admitted by him, specifying the quantity of timber, bamboos, grass and other forest-produce annually required, the number and description of cattle admitted to graze in the forest and the season during which such pasture is required.

Exercise of rights admitted or modified.

14. After making such record, the Forest Settlement Officer shall, to the best of his ability, and having due regard to the maintenance of the Reserved Forest in respect of which the claim is made, make such arrangements as will ensure the continued exercise of the rights so admitted or modified. For this purpose, the Forest Settlement Officer may—

(*a*) so alter the limits of the proposed reserved forest as to exclude forest-land of sufficient extent, and conveniently situated for the purposes of the claimants; or

(*b*) record an order, conferring upon such claimants a right to pasture or to forest-produce, (as the case may be) to the extent so admitted, at such seasons and within such portions of the reserved forest as may from time to time be fixed for that purpose by competent authority; or

(*c*) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them a right to pasture or to forest-produce (as the case may be) to the extent so admitted.

Commutation of rights.

15. In case the Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such arrangements as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Chief Commissioner may from time to time prescribe in this behalf) commute such rights either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as may be agreed upon.

Appeal to Forest Court from order passed under section 10, 11 or 14.

16. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Chief Commissioner in this behalf, may, within three months from the date of the order passed on such petition by the Forest Settlement Officer under section 10, 11 or 14, prefer an appeal from such order to the Forest Court.

Every such appeal shall be made by petition in writing, and shall be chargeable with a Court-fee of eight annas, and shall be presented to and forwarded by the Forest Settlement Officer.

The Forest Court shall fix a day for hearing the appeal, and shall give notice of such day to the parties, and shall hear such appeal in the neighbourhood of the forest. The order passed thereon by such Court, or by the majority of the members of such Court, shall (subject to review by the Chief Commissioner) be final, and the Forest Settlement Officer shall forthwith proceed to carry out the orders of the Court.

Power to appoint pleader on behalf of Government.

17. The Chief Commissioner may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the Forest Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

18. When—

(*a*) the period fixed under section 8 for presenting notices has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer, and

(*b*) (if any such claims have been made) the period limited by section 16 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the Forest Court, and

(*c*) all lands (if any) included in the forest, which the Forest Settlement Officer has, under section 10, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Chief Commissioner may publish a notification in the *British Burma Gazette* declaring the forest, or any portion thereof, to be reserved from a date fixed by such notification, and from the date so fixed, such forest or such portion thereof shall be deemed to be a reserved forest.

Publication of such notification in neighbourhood of forest.

19. The Forest Officer shall, before the date fixed by such notification, cause a translation of such notification into the language of the district to be affixed in some conspicuous place in every town and village in the neighbourhood of the forest.

No right acquired over reserved forest, except as here provided.

20. No right of any description shall be acquired to, over, or in respect of, a reserved forest, except under a grant or contract in writing made by or on behalf of the Government.

Rights not to be alienated.

21. No right, conferred under section 14, clause (*b*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner, and no produce obtained by virtue of such a right shall be sold or bartered except to such extent as a right to sell or barter may have been admitted in the order recorded under section 13.

Power to stop ways and watercourses in such forests.

22. The Forest Officer may from time to time, with the previous sanction of the Deputy Commissioner, stop any public or private way or watercourse in a Reserved Forest, provided that he has already assigned or constructed another way or watercourse (as the case may be) in lieu thereof, and that such other way or watercourse is a reasonably convenient substitute for the way or watercourse so stopped.

Acts prohibited in such forest.

23. Any person who

(*a*) sets fire to a Reserved Forest, or kindles any fire therein in such manner as to endanger the same, or

(*b*) kindles, keeps or carries any fire therein between the first day of February and the first day of June,

(*c*) burns any lime, bricks or charcoal therein,

(*d*) trespasses or grazes his cattle or permits his cattle to trespass therein,

(*e*) causes any damage therein by negligence in felling any trees or cutting or dragging any timber,

(*f*) fells, girdles, lops, taps or burns any trees therein, or strips off the bark or leaves from, or otherwise interferes with, the same,

(*g*) collects any forest-produce therein,

(*h*) cuts any toungya therein,

shall be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both, in addition to such damages for injury done to the forest as the Court may direct to be paid.

Nothing in this section shall be deemed to prohibit any act done by permission in writing of the Forest Officer, or the exercise of any right conferred under section 14, clause (*b*), or created by written grant or contract made by or on behalf of Government.

Maintenance of rule 13, dated 2nd August 1865.

24. The thirteenth of the rules for the better management and preservation of the Government forests in British Burma, dated the second day of August 1865, shall continue to apply to every forest constituted a Reserved Forest under any law in force previous to the date on which this Act comes into force, until the Chief Commissioner, by notification in the *British Burma Gazette*, declares such forest to be a Reserved Forest under the provisions hereinafter contained.

Every offence against such rule shall be deemed to be an offence punishable under rules made under this Act.

Formation and extension of Reserved Forests under Land Acquisition Act.

25. The formation and extension of a Reserved Forest shall be deemed a public purpose within the meaning of the Land Acquisition Act, 1870, section 4.

Power to declare forest no longer reserved.

26. The Chief Commissioner may, by notification in the *British Burma Gazette*, direct that, from a date fixed by such notification, any forest or any portion of any forest reserved under this Act, shall cease to be a Reserved Forest.

From the date so fixed, such forest or portion thereof shall cease to be reserved, but the rights (if any) which have been extinguished in such forest shall not in consequence of such cessation be deemed to revive.

Village Forests.

Demarcation of village-forests.

27. The Chief Commissioner may assign any Reserved Forest or portion thereof for the use of any village or villages situated in the vicinity of such forest. Such forests shall be called village-forests. The Chief Commissioner may make rules for regulating the management of such village-forests, prescribing the conditions under which the inhabitants of the villages for the benefit of which any such forest is assigned, may be provided with timber, pasture or other forest-produce, and their duties for the protection and improvement of such forest.

All provisions of this Act relating to Reserved Forests shall (so far as they are consistent with rules so made) apply to village-forests.

CHAPTER III.
OF DISTRICT FORESTS.

"District Forest" defined.

28. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, declare the provisions of this chapter applicable to any forest or waste-land which is not included in a Reserved Forest, and which the Government has not granted, sold or leased.

The forests and waste-lands comprised in any such notification shall be called "District Forests."

Power to issue notification—

29. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*—

reserving trees,

(*a*) declare any class of trees in a district-forest, or any trees in any such forest, to be reserved from a day fixed by such notification;

prohibiting collection of forest-produce.

(*b*) prohibit, from a date fixed as aforesaid, the quarrying of limestone, laterite or any other stone, or the burning of lime or charcoal, or the collection of any description of forest-produce, in any such forest or in any portion thereof.

Teak to be reserved.

Unless and until the Chief Commissioner by notification under this section declares otherwise, teak shall be deemed to be reserved in all district-forests.

Publication of such notification in neighbourhood.

30. The Deputy Commissioner shall cause a translation into the language of the district, of every notification issued under section 29, to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest to which such notification applies.

Power to make rules regulating disposal of produce of district-forests.

31. The Chief Commissioner may from time to time make rules to regulate the following matters:—

(*a*) the cutting and removal of trees and timber, and the collection and removal of forest-produce from the district-forests;

(*b*) the granting of free permits to the inhabitants of towns and villages in the vicinity of district-forests, and the production and return of such permits by such persons;

(*c*) the granting of trade-permits to persons felling or removing trees or timber or forest-produce from such forests for the purposes of trade, and the production and return of such permits by such persons;

(*d*) fees payable by such persons, for permission to cut such trees, or to collect and remove such timber or forest-produce, and

(*e*) the other payments, if any, to be made by them in respect of such timber and produce, and the places where such payments shall be made.

Penalties for acts in contravention of notification under section 29.

32. Any person who

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 29, or strips off the bark or leaves from, or otherwise interferes with, any such tree, or

(*b*) makes gardens or toungyas in any forest containing trees reserved as aforesaid, or sets fire to such forest, or

(*c*) kindles a fire without taking all such reasonable precautions as are requisite to prevent its spreading to any trees so reserved, or to any timber of such trees in the vicinity, or

(*d*) leaves burning any fire kindled by him in the vicinity of any such trees or timber, or

(*e*) fells any tree or drags any timber in such a manner as to injure any tree reserved as aforesaid, or

(*f*) permits cattle belonging to him or under his charge to injure any such tree, or

(*g*) quarries any stone, or burns any lime or charcoal, or collects or removes any forest-produce when such quarrying, burning or collecting has been prohibited by a notification under section 29,

shall be punished with imprisonment which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Officer, or in accordance with rules made under section 31, or in the exercise of a right recognized by section 6 of the Burma Land-Revenue Act, 1876.

CHAPTER IV.

OF THE DUTY ON TIMBER.

Power to impose duty on timber.

33. On all timber the produce of forests situated within British territory or brought from any forest situated beyond the frontier of British Burma, a duty may be levied in such manner, at such places and at such rates, as the Chief Commissioner, with the previous sanction of the Governor General in Council, from time to time prescribes by notification in the *British Burma Gazette:*

Limit of such duty when levied on each log.

Provided that if such duty is directed to be levied on each log of such timber, it shall not exceed five rupees per log of five feet in girth and upwards, and two rupees eight annas per log of less than five feet in girth:

When levied *ad valorem*.

Provided also that if such duty is directed to be levied *ad valorem*, it shall not exceed ten per cent. of the value.

Power to fix value for *ad valorem* duty.

34. In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, with the like sanction, from time to time fix by like notification the value on which such duty shall be assessed.

CHAPTER V.

OF THE TRANSIT OF TIMBER AND FOREST-PRODUCE.

Power to make rules to regulate transit of forest-produce.

35. The Chief Commissioner may from time to time make rules to regulate the transit of all timber and other forest-produce.

Such rules may (among other matters)

(*a*) prescribe the routes by which only timber and other forest-produce may be imported, exported or moved into, from or within, British Burma;

(*b*) prohibit the import, export, or moving of such timber or other produce without a pass from the Forest Officer, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes and for the payment of fees therefor;

(*d*) provide for the stoppage and examination of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof or on account of any duty, fee or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(*e*) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it;

(*f*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed; and

(*g*) provide for the removal of any obstruction of the channel or banks of any such river, and for recovering from the person causing such obstruction the cost of such removal.

Government and its officers not liable for damage to forest-produce at depôt.

36. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section 35, and no Forest Officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

All persons bound to aid in case of accident at depôt.

37. In case of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall assist any forest or police officer demanding his aid in averting such danger and securing such property from damage.

CHAPTER VI.

OF THE COLLECTION OF FLOATING AND STRANDED TIMBER.

Drift or stranded timber, or timber unmarked, or with marks obliterated, to become property of Government until title thereto proved.

38. All timber and wood found adrift or stranded on any river, or off the sea-coast of any part of the said territories, and all unmarked wood and timber, or wood or timber on which the marks have been obliterated, altered, or defaced, by fire or otherwise, and all timber beached, stranded or sunk in any river, or on the sea-coast as aforesaid, shall be deemed to be the property of Government unless and until any person establish his right and title thereto.

Licenses to collect timber floating loose.

39. When any timber is floating loose and unrafted in any river or in the sea, or having been so floating has become stranded or has sunk, the Forest Officer may grant a license, either to the owner of such timber, or to any other person he thinks fit, to collect the same, upon such terms as to its continuance, production, return or otherwise, as the Chief Commissioner may from time to time direct.

Timber in danger of escaping beyond control may be collected without license.

40. Except on any rivers and in any place which the Chief Commissioner may by rule exempt from the operation of this section, any person may without a license collect any timber floating, stranded or sunk as aforesaid, which, there is reason to believe, would, if not so collected, escape beyond the possibility of being recovered in the usual course.

Timber collected under sections 39 and 40 how dealt with.

41. Any person collecting any timber under a license granted under section 39, unless he is the owner or the agent of the owner of such timber, and

any person collecting any timber under section 40,

shall at once inform the Forest Officer that he has collected such timber, shall retain the same pending the receipt of an order from such officer as to the disposal thereof, and, on the receipt of such order, shall dispose of such timber in accordance therewith.

Forest Officer may collect.

42. The Forest Officer may collect any timber floating, stranded or sunk as aforesaid.

Penalty for offences against preceding sections.

43. Any person who—

(*a*) except as provided in sections 40 and 41, or under and in accordance with the provisions of a license granted under section 39, collects any timber, whether belonging to himself or to any other person, which is floating, stranded or sunk as aforesaid, or,

(*b*) having collected any such timber, is guilty of any act or omission in respect of the same contrary to the provisions of section 41,

shall be punished with imprisonment which may extend to six months, or with fine which may amount to five hundred rupees, or with both.

Forest Officer how to deal with timber collected by, or made over to him.

44. When the Forest Officer has collected any timber under section 42, or when any timber has been delivered to him in compliance with an order issued under section 41, and the person entitled to the possession of such timber is known to him, he shall, subject to the provisions of sections 48 and 74, deliver the same to such person or as he shall direct.

When person entitled to possession is known.

When the person entitled to the possession of such timber is not known to the Forest Officer, he shall publish a notice in the *British Burma Gazette* and shall affix a translation of the same into the language of the country at the place where such timber then is, describing such timber, and calling upon any person having a claim to the possession of the same to present to him within three months from the date of such notice a written statement of such claim.

When such person is not known.

45. When any such statement is presented as aforesaid, the Forest Officer may, after making such enquiry as he thinks fit, either reject the claim, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any damages or costs against the Government, or against any Forest Officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

On rejection of claim to such timber, claimant may institute suit.

Government and its officers not liable for damage to such timber.

46. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 42 or delivered to a Forest Officer in compliance with an order issued under section 41, and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Effect of omission to prosecute claim to such timber.

47. If the person entitled to the possession of any timber collected or delivered as aforesaid omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 44, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section 45, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 45, in such other person, free from all encumbrances of every description.

Fees to be paid by claimant before timber is delivered to him.

48. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest Officer such fees on account of the collection thereof as the Chief Commissioner may from time time by rule prescribe.

CHAPTER VII.

GENERAL.

A.—Of Penalties.

Forest-produce, tools, &c., when liable to confiscation.

49. All forest-produce in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any such offence, shall be liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Seizure of property liable to confiscation.

50. When there is reason to believe that any property is liable to confiscation under section 49 for any offence, it may be seized by any Police or Forest Officer.

Application for confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, apply for the confiscation of the same to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

51. If on receiving an application under section 50, and on making such inquiry as he deems fit, such Magistrate has reason to believe that such property is liable to confiscation under this Act, he shall cause a notice of such application to be affixed at the place of seizure and served upon every person known or believed to be interested in such property.

Procedure on such application.

52. Any person so interested may within one month from the date of serving such notice present a petition to such Magistrate claiming to be heard in opposition to the application.

Person interested may oppose confiscation.

53. On the expiry of the said period of one month, if no such petition has been presented, or, if any such petition has been presented, after hearing the petitioner and considering any evidence he may adduce, the Magistrate may pass an order for the confiscation of the property or for its release.

Order for confiscation.

54. The officer who made the seizure under section 50, or any of his official superiors, or any person who has presented a petition under section 52, may within one month from the date of such order appeal therefrom to the Sessions Judge, and the order passed on such appeal shall be final.

Appeal from such order.

55. When an order for the confiscation of any property has been passed under section 53, and the period limited by section 54 for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Sessions Judge confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances of every description.

Property when to vest in Government.

56. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section 50.

Saving of power to release property seized.

57. Any Police or Forest Officer who vexatiously or unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

Punishment for wrongful seizure.

58. Whoever, with intent to cause damage or injury to the public or to any person—

Penalty for counterfeiting or defacing marks on trees and timber and for altering, &c., boundary-marks.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(*b*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest Officer, or

(*c*) alters, moves, destroys or defaces any boundary-mark of a Reserved Forest,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

B.—Of Criminal Procedure.

59. Any Police or Forest Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Power to arrest without warrant.

Every officer making an arrest under this section shall without unnecessary delay take or send the person arrested before the Magistrate having jurisdiction in the case.

60. Every Police and Forest Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to prevent commission of offence.

61. Every such officer knowing of a design to commit any such offence may arrest without orders from a Magistrate and without a warrant the person entertaining such design, if the commission of such offence cannot be otherwise prevented.

Power to arrest person designing to commit offence.

62. The Magistrate of the District and any Magistrate of the first class specially empowered in this behalf by the Chief Commissioner may try, in the summary way prescribed by the eighteenth chapter of the Code of Criminal Procedure, any forest-offence punishable with imprisonment for not more than six months, or with fine not exceeding five hundred rupees.

Power to try offences summarily.

63. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, empower any Forest Officer of such grade as the Chief Commissioner may from time to time direct, to accept from any person charged with any forest-offence other than an offence under section 57 or section 58 a sum of money by way of composition for such offence.

Power to compound offences.

On the payment of such sum of money to such officer, the accused person, if in custody, shall be discharged, any property seized as liable to confiscation in respect of such offence shall be released, and no further proceedings of any description shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

64. When in any proceedings instituted under this Act, or in consequence of anything done under this Act, a question arises as to whether any timber is the property of the Government, such timber shall be presumed to be the property of the Government until the contrary is proved.

Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

65. Cattle trespassing in a Reserved Forest, or doing damage to any trees reserved under section 29, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle Trespass Act, 1871, and may be seized and impounded as such by any Police or Forest Officer.

Cattle Trespass Act, 1871, to apply.

66. The Chief Commissioner may from time to time by rule direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 65 of this Act, such fines as to him may seem fit, but not exceeding the following, that is to say,

Power to alter fines fixed by that Act.

For each elephant	...	... ten rupees.
,, buffalo	...	... two ,,
,, horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer		... one rupee.
,, calf, ass, or pig		... eight annas.
,, ram, ewe, sheep, lamb, goat or kid	...	... one rupee.

D.—Miscellaneous.

67. Every person who exercises any right in a district-forest, or in a forest reserved under this Act or under any law in force previous to the date on which this Act comes into force, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest,

Persons interested in forest bound to assist Forest and Police Officers.

and every person who is employed by any such person in such forest,

shall be bound to communicate without unnecessary delay to the nearest Forest or Police Officer any information he may possess respecting the commission of or intention to commit any forest-offence, and shall assist any Police or Forest Officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest,

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest,

(*c*) in preventing the commission in such forest of any forest-offence,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

68. The Chief Commissioner may, subject to any restrictions from time to time imposed by the Governor General in Council, invest a Forest Settlement Officer, or any member of a Forest Court, or any Forest Officer, by name or as holding any office, with any of the following powers to be exercised by him for the purposes of this Act in any part of British Burma, or in any class of cases, that is to say,

Chief Commissioner may confer additional powers.

(*a*) power to enter upon any land and to survey, demarcate and make a map of the same,

(*b*) any power exercised by a Civil Court in the trial of suits or the hearing of appeals,

(*d*) power to delegate the exercise of any power or the performance of any duty to a subordinate officer.

69. The Chief Commissioner may from time to time, by order published in the *British Burma Gazette*, remove or suspend any person from the office of Forest Settlement Officer or member of a Forest Court, and, whenever such office becomes vacant, whether by the removal of the incumbent or otherwise, may by like order appoint another person thereto.

Power to remove officers and fill vacancies.

70. In addition to the other matters for which the Chief Commissioner is empowered by this Act to make rules, he may from time to time make rules—

Additional powers to make rules.

(*a*) to prohibit, absolutely or subject to conditions, within certain local limits, the establishment of sawpits for the sawing up of timber, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking hammers or other implements used for marking timber;

(*b*) to regulate the use of property-marks for timber, and to provide for the registration of such marks and for the levy of fees from persons registering the same;

(*c*) to determine the persons by whom, and the manner in which, rights over district-forests and over forests reserved under this Act or under any law in force previous to the date on which this Act comes into force, may be conferred, and the mode in which rights so conferred shall be exercised;

(*d*) to determine the person by whom, and the time, place and manner at and in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done; and

(*e*) generally to carry out the provisions of this Act.

71. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Power to impose penalties for breach of rules.

72. All rules made by the Chief Commissioner under this Act shall, when sanctioned by the Governor General in Council, be published in the *British Burma Gazette*, and shall thereupon, so far as they are consistent with this Act, have the force of law.

Rules when to have force of law.

73. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered as if it were an arrear within the meaning of the fourth part of the Burma Land and Revenue Act, 1876.

Recovery of money due to Government.

74. When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer until such amount has been paid.

Lien on forest-produce for such money.

If such amount is not paid when due, the Forest Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any) if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Bribing Forest Officers.

75. All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code, sections 161 to 165 (both inclusive).

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year.	Title.
VII of 1865 ...	An Act to give effect to Rules for the management and preservation of Government forests.
VII of 1869 ...	An Act to give validity to certain Rules relating to forests in British Burma.
XIII of 1873 ...	An Act to amend the law relating to timber floated down the rivers of British Burma.

STATEMENT OF OBJECTS AND REASONS.

The Province of Burma is, as compared with other parts of India, in a peculiar position, and the whole of the specifically unalienated forest-land is the property of Government, subject only to certain rights of user, or privileges exercised in some parts by individuals or village-communities. This right was proclaimed at the time of the annexation of the various territories which now form the Province of British Burma, and has never been gainsaid. The history of the previous legislation in regard to the forest-lands is this: In 1865, when the general Government Forest Act was passed, certain rules were made under it for Burma, which did not apply to the whole of the forests there, and it was eventually found that in part they were not covered by the Act itself. It therefore became necessary to pass an Act in 1869 to validate them. Subsequently, Act XIII of 1873 was passed to amend the law relating to timber floated and imported from foreign territory into British Burma, and that Act repealed Act VII of 1869, and partly also Act XXX of 1854. Later on, in 1874, the duty on foreign timber was made *ad valorem*, and finally, in 1875, further rules were made, under the Act of 1865, for the forests which had not been included in the old rules.

However, the whole has been at best but a piecemeal process, and legislation is still required upon five principal points, besides a number of small ones. First, it is necessary to clear up doubts regarding the reservation of trees other than teak. The system of recovering a part of the price of Government timber in the form of a duty also has to be provided for. Forest-duties are necessary to defray the expense of extra police. But perhaps the most important subject for which legal provisions have been found necessary, is the enquiry into, and decision of, claims of persons to the various rights of servitude and user in the Government forests. It is likewise essential to bar the acquisition by prescription of new rights in reserved forests. Finally, the penalties provided by the present law have been found to be insufficient. The Bill provides for all these points; it also repeals and re-enacts, with the necessary amendments, the three Acts relating to forests and timber, which are now in force in British Burma.

T. C. HOPE.

CALCUTTA; *4th December* 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 16, 1876. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th November 1876, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 13 OF 1876.

A Bill to amend the law relating to Treasure-trove.

Preamble.

WHEREAS it is expedient to amend the law relating to treasure-trove; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Treasure-trove Act, 1877:"

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."

"treasure" includes gold-coin, silver-coin, bullion, gold and silver in a manufactured state, precious stones and other valuable property;

"Collector."

"Collector" means (1) the Collector of a District, (2) a Deputy Commissioner, and (3) any officer appointed by the Local Government to perform the functions of a Collector under this Act.

Procedure on finding Treasure.

Notice by finder of treasure.

4. Whenever any treasure exceeding in amount or value twenty-five rupees is found buried in the earth or otherwise concealed, the finder shall, as soon as practicable, give to the Collector notice in writing—

(*a*) of the nature, amount or approximate value of the treasure so found;

(*b*) of the place in which it was found;

(*c*) of the date of the finding;

and shall either deposit the treasure in the 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.

Collector's procedure on receipt of notice.

5. On receiving a notice under section four, the Collector shall 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 at a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof or any interest therein, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than six months after the date of the publication of such notice;

(*b*) where the place in which the treasure was 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.

Power to declare intention to acquire the treasure on behalf of Government.

6. The Collector may, at any time before the day so notified, by writing under his hand declare his intention to acquire on behalf of Government the said treasure or any specified portion thereof, by payment to the persons interested therein

of a sum equal to the intrinsic value of the said treasure or portion, and to one-fifth of such value; and thereupon, subject to the payment aforesaid, the said treasure or portion shall be deemed to be the property of Government.

Procedure on enquiry into value of treasure and persons entitled thereto.

7. On the day notified under section five, the Collector shall cause the treasure to be produced before him, and shall proceed to inquire into the value of the treasure, and (subject to the rules hereinafter prescribed) to determine the persons interested therein, and the amount payable to them respectively.

For the purpose of such enquiry, the Collector may summon and enforce the attendance of witnesses, and compel the production of documents, by the same means, and (as far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure; and the Collector may, if no claimant attends pursuant to the notice, or if, for any other cause, he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Rules for guidance of Collector.

8. In determining claims under this Act, and the amount to which the claimants are entitled, the Collector shall be guided by the following rules (namely):—

(*a*) if there is reason to think that the treasure was concealed more than one hundred years before the date of the finding, he shall not admit the claim of any person other than the finder of the treasure and the owner of the place in which the treasure was found;

(*b*) if the treasure was found in the process of executing some work (such as a road, a railway or a canal) for the benefit of the public, and if there be no claimant other than the finder, three-fourths of the amount, or, if the Collector prefers, the value of the treasure, shall be awarded to the finder and the residue to the Government;

(*c*) if the treasure was found in a place belonging to a private person, and such person and the finder have not entered into any agreement then in force as to the allotment of the treasure, three-fourths of the treasure shall be allotted to the finder and the residue to the owner of the place in which it was found. If such owner and the finder have entered into any such agreement, the treasure shall be allotted in accordance therewith;

(*d*) if the Collector has, under section six, declared his intention to acquire the whole or any portion of the treasure, the Collector shall (notwithstanding anything contained in clauses (*a*), (*b*) and (*c*) of this section) give effect to such declaration, and in such case the provisions of the same clauses as to the treasure shall be deemed to apply to the payment to be made for such treasure or portion in accordance with section six.

Bar of appeal against decision of Collector and of suits against him for acts done *bonâ fide*.

9. There shall be no appeal against any decision of the Collector under this Act, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Penalties.

Penalty on finder failing to give notice, make deposit or give security.

10. If the finder of any treasure to which this Act applies fails to give the notice, or to make the deposit, or to give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government,

and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and, in default of payment, to imprisonment for a term which may extend to twelve months.

Penalty on owner abetting offence under section 10.

11. If the owner of the place in which any treasure to which this Act applies is found abets, within the meaning of the Penal Code, any failure to give the notice, make the deposit, or give the security, required by section four, the share of such treasure, or of the price payable for such treasure or any part thereof under section six, to which he would otherwise be entitled, shall vest in the Government,

and he shall, on conviction before a Magistrate, be liable to fine not exceeding the intrinsic value of such treasure, and, in default of payment, to imprisonment for a term which may extend to six months.

SCHEDULE.

Number and date of enactments.	Title.	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 Panjáb, and for other purposes.	So far as regards Bengal Reg. V of 1817.
Act XV of 1874...	Laws Local Extent ...	The second schedule so far as regards Madras Reg. XI of 1832. The fourth schedule so far as regards Bengal Reg. V of 1817.
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 Reg. 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.

STATEMENT OF OBJECTS AND REASONS.

The law of treasure-trove is in a very unsatisfactory state. At present, there is one law in Madras and another in Bengal, while it is doubtful what the law is in Bombay, and in the three Presidency towns probably the English law prevails. Moreover, the law everywhere is bad and ineffective, and gives every inducement to finders to conceal or make away with their discoveries; and yet there is a good deal of treasure buried in India, and much of it (if we may judge by what has already been found) of very high antiquarian and historical interest.

2. Under these circumstances, the present Bill has been prepared. It provides, among other things, that—

(*a*) the finder shall give notice to the Collector of the District of the discovery of treasure, and either deposit the treasure in the Government Treasury, or give security for producing it when required;

(*b*) notice shall be given by the Collector to the owner or owners of the land where the treasure was found;

(*c*) the discovery of the treasure shall be advertised, and all claimants desired to come forward within six months;

(*d*) if there is reason to believe that the treasure was hidden or deposited more than a hundred years previously, no claim of any outside person shall be admitted;

(*e*) in the case of treasure found in a public place, such as in digging a road, a railway, or a canal, such treasure shall vest, if more than a hundred years old, or if unclaimed, in the proportion of three-fourths in the finder and one-fourth in Government; and

(*f*) if the land or other property on which the treasure is found belongs to a private party, then the latter shall receive the Government share, unless the finder has made any previous agreement with such owner or owners, in which case the division shall be regulated according to that agreement.

3. The Bill adopts the principle of certain recent legislation in the north of Europe, which has practically worked well.

E. C. BAYLEY.

Calcutta, 22nd November 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th December 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 14 OF 1876.

THE BURMA FOREST BILL, 1877.

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SCHEDULE—ACTS REPEALED.

A Bill to consolidate and amend the law relating to the management and preservation of Government forests in the province of British Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the management and preservation of Government forests in the province of British Burma, to the transit of forest-produce through the said province, and to the duty leviable on timber imported thereinto; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Forest Act, 1877:" Short title.
It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma; Local extent.
And it shall come into force on such date as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the *British Burma Gazette*, direct. Commencement.

2. On and from such date the Acts mentioned in the schedule hereto annexed, and all rules made under or validated by any of the said Acts, shall, except as provided by section 24, be repealed, but not so as to affect any thing duly done under any such Act or Rules. Repeal.

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

"Forest officer" means any person whom the Chief Commissioner may from time to time appoint by name, or as holding an office, to do "Forest officer."

(1) anything required by this Act to be done by a Forest officer;

(2) anything to be done by a Government officer under this Act, or under any rule made under this Act, and for the doing of which no agency is specially provided by this Act:

"Tree" includes bamboos and brushwood: "Tree."

"Timber" includes trees when they have fallen or have been felled, and all wood when cut up, or when fashioned or hollowed out for cart-wheels, mortars, canoes, or other purposes: "Timber."

"Forest-produce" includes the following when found in, or brought from, a forest, that is to say— "Forest-produce."

Limestone, laterite and other minerals and surface-soil, trees, timber, grass, reeds, leaves, flowers, fruits, juice, bark, honey, wax, lac, gum, wood-oil, resin and varnish:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act: "Forest-offence."

"Cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids: "Cattle."

"River" includes streams, canals, creeks and other channels, natural or artificial. "River."

CHAPTER II.

OF RESERVED FORESTS.

4. The Chief Commissioner may from time to time constitute any forest a reserved forest in manner hereinafter provided. Reserved forests, unless assigned to villages as provided in section 27, may be called State forests. Power to reserve forests.

5. Whenever it is proposed to constitute any forest a reserved forest, and the limits of such forest have not been defined by boundary-marks, and are not, in the opinion of the Chief Commissioner, already sufficiently marked by roads, rivers, or other such boundaries, the Chief Commissioner may cause such limits to be demarcated in such manner as he thinks fit. Demarcation of boundaries.

6. When the Chief Commissioner has ascertained that the limits of such forest are already sufficiently defined or marked as aforesaid, or when such limits have been demarcated under section 5, he may publish a notification in the *British Burma Gazette*— Notification by Chief Commissioner.

(*a*) declaring that it is proposed to reserve such forest under this Act;

(*b*) specifying the limits of such forest;

(*c*) appointing an officer (hereinafter called "the Forest Settlement Officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person to or over any land comprised within such limits, or to or over any forest-produce; and

(*d*) appointing three persons (hereinafter called "the Forest Court") to hear appeals from the decisions of such officer.

7. During the interval between the publication of such notification and the date fixed by the notification under section 18, no right shall be acquired to, over, or in respect of, the forest comprised in such notification, except under a grant or contract in writing made or entered into by or on behalf of Government or of some person in whom such right was vested when the former notification was issued, and no fresh gardens or toungyas shall be cut in such forest. Bar of accrual of forest-rights.

8. When a notification has been issued under section 6, the Forest Settlement Officer shall publish in every town and village in the neighbourhood of the forest mentioned therein a proclamation in the language of the country— Proclamation by Forest Settlement Officer.

(*a*) specifying the limits of such forest,

(*b*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right as aforesaid, to present to such officer within such period a written notice stating the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

9. Any such right in respect of which no such notice is presented within the said period shall be deemed to be extinguished. Rights not claimed, extinguished.

10. When any such notice is presented as aforesaid, the Forest Settlement Officer shall inquire into the merits of the claim, and may, if he considers it proved and if he thinks fit to do so, in the case of a claim to or over any land, pass an order to that effect and proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870, or, in the case of a claim to rights of way or of pasture, or to forest-produce, proceed in the manner prescribed in sections 11 and 12. Power to acquire land over which right is claimed.

For the purpose of so acquiring such land—

(*a*) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(*b*) the claimant shall be deemed to be a person interested and attending before him in pursuance of a notice issued under section 9 of that Act, and

(*c*) the conditions prescribed by the preceding sections of that Act shall be deemed to have been fulfilled.

11. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall enquire into the nature and extent of such rights, and shall pass an order, admitting, rejecting or modifying the claim. Enquiry into claims.

12. The Forest Settlement Officer, when passing any such order, shall record the name, residence and occupation of the person claiming the right, the designation (if any), position and area of all fields or groups of fields, and the designation and position of all buildings, in respect of which the exercise of such rights is claimed. Record to be made by Forest Settlement Officer.

No such claim shall be admitted, unless

(*a*) the claimant was, at the time when the limits of the forest were notified under section 6, in the habitual exercise of the right claimed, and

(*b*) unless the exercise of the right is required for the beneficial use of the land or premises, or of the person claiming the same.

Record where he admits claim.

13. If the Forest Settlement Officer admits any such claim with or without modification, he shall also record the extent to which such rights have been admitted by him, specifying the quantity of timber, bamboos, grass and other forest-produce annually required, the number and description of cattle admitted to graze in the forest and the season during which such pasture is required.

Exercise of rights admitted or modified.

14. After making such record, the Forest Settlement Officer shall, to the best of his ability, and having due regard to the maintenance of the Reserved Forest in respect of which the claim is made, make such arrangements as will ensure the continued exercise of the rights so admitted or modified. For this purpose, the Forest Settlement Officer may—

(*a*) so alter the limits of the proposed reserved forest as to exclude forest-land of sufficient extent, and conveniently situated for the purposes of the claimants; or

(*b*) record an order, conferring upon such claimants a right to pasture or to forest-produce, (as the case may be) to the extent so admitted, at such seasons and within such portions of the reserved forest as may from time to time be fixed for that purpose by competent authority; or

(*c*) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them a right to pasture or to forest-produce (as the case may be) to the extent so admitted.

Commutation of rights.

15. In case the Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such arrangements as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Chief Commissioner may from time to time prescribe in this behalf) commute such rights either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as may be agreed upon.

Appeal to Forest Court from order passed under section 10, 11 or 14.

16. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Chief Commissioner in this behalf, may, within three months from the date of the order passed on such petition by the Forest Settlement Officer under section 10, 11 or 14, prefer an appeal from such order to the Forest Court.

Every such appeal shall be made by petition in writing, and shall be chargeable with a Court-fee of eight annas, and shall be presented to and forwarded by the Forest Settlement Officer.

The Forest Court shall fix a day for hearing the appeal, and shall give notice of such day to the parties, and shall hear such appeal in the neighbourhood of the forest. The order passed thereon by such Court, or by the majority of the members of such Court, shall (subject to review by the Chief Commissioner) be final, and the Forest Settlement Officer shall forthwith proceed to carry out the orders of the Court.

Power to appoint pleader on behalf of Government.

17. The Chief Commissioner may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the Forest Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

18. When—

(*a*) the period fixed under section 8 for presenting notices has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer, and

(*b*) (if any such claims have been made) the period limited by section 16 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the Forest Court, and

(*c*) all lands (if any) included in the forest, which the Forest Settlement Officer has, under section 10, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Chief Commissioner may publish a notification in the *British Burma Gazette* declaring the forest, or any portion thereof, to be reserved from a date fixed by such notification, and from the date so fixed, such forest or such portion thereof shall be deemed to be a reserved forest.

Publication of such notification in neighbourhood of forest.

19. The Forest Officer shall, before the date fixed by such notification, cause a translation of such notification into the language of the district to be affixed in some conspicuous place in every town and village in the neighbourhood of the forest.

No right acquired over reserved forest, except as here provided.

20. No right of any description shall be acquired to, over, or in respect of, a reserved forest, except under a grant or contract in writing made by or on behalf of the Government.

Rights not to be alienated.

21. No right, conferred under section 14, clause (*b*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner, and no produce obtained by virtue of such a right shall be sold or bartered except to such extent as a right to sell or barter may have been admitted in the order recorded under section 13.

Power to stop ways and watercourses in such forests.

22. The Forest Officer may from time to time, with the previous sanction of the Deputy Commissioner, stop any public or private way or watercourse in a Reserved Forest, provided that he has already assigned or constructed another way or watercourse (as the case may be) in lieu thereof, and that such other way or watercourse is a reasonably convenient substitute for the way or watercourse so stopped.

Acts prohibited in such forest.

23. Any person who

(*a*) sets fire to a Reserved Forest, or kindles any fire therein in such manner as to endanger the same, or

(*b*) kindles, keeps or carries any fire therein between the first day of February and the first day of June,

(*c*) burns any lime, bricks or charcoal therein,

(*d*) trespasses or grazes his cattle or permits his cattle to trespass therein,

(*e*) causes any damage therein by negligence in felling any trees or cutting or dragging any timber,

(*f*) fells, girdles, lops, taps or burns any trees therein, or strips off the bark or leaves from, or otherwise interferes with, the same,

(*g*) collects any forest-produce therein,

(*h*) cuts any toungya therein,

shall be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both, in addition to such damages for injury done to the forest as the Court may direct to be paid.

Nothing in this section shall be deemed to prohibit any act done by permission in writing of the Forest Officer, or the exercise of any right conferred under section 14, clause (*b*), or created by written grant or contract made by or on behalf of Government.

Maintenance of rule 13, dated 2nd August 1865.

24. The thirteenth of the rules for the better management and preservation of the Government forests in British Burma, dated the second day of August 1865, shall continue to apply to every forest constituted a Reserved Forest under any law in force previous to the date on which this Act comes into force, until the Chief Commissioner, by notification in the *British Burma Gazette*, declares such forest to be a Reserved Forest under the provisions hereinafter contained.

Every offence against such rule shall be deemed to be an offence punishable under rules made under this Act.

Formation and extension of Reserved Forests under Land Acquisition Act.

25. The formation and extension of a Reserved Forest shall be deemed a public purpose within the meaning of the Land Acquisition Act, 1870, section 4.

Power to declare forest no longer reserved.

26. The Chief Commissioner may, by notification in the *British Burma Gazette*, direct that, from a date fixed by such notification, any forest or any portion of any forest reserved under this Act, shall cease to be a Reserved Forest.

From the date so fixed, such forest or portion thereof shall cease to be reserved, but the rights (if any) which have been extinguished in such forest shall not in consequence of such cessation be deemed to revive.

Village Forests.

Demarcation of village-forests.

27. The Chief Commissioner may assign any Reserved Forest or portion thereof for the use of any village or villages situated in the vicinity of such forest. Such forests shall be called village-forests. The Chief Commissioner may make rules for regulating the management of such village-forests, prescribing the conditions under which the inhabitants of the villages for the benefit of which any such forest is assigned, may be provided with timber, pasture or other forest-produce, and their duties for the protection and improvement of such forest.

All provisions of this Act relating to Reserved Forests shall (so far as they are consistent with rules so made) apply to village-forests.

CHAPTER III.

OF DISTRICT FORESTS.

"District Forest" defined.

28. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, declare the provisions of this chapter applicable to any forest or waste-land which is not included in a Reserved Forest, and which the Government has not granted, sold or leased.

The forests and waste-lands comprised in any such notification shall be called "District Forests."

Power to issue notification—

29. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*—

reserving trees,

(*a*) declare any class of trees in a district-forest, or any trees in any such forest, to be reserved from a day fixed by such notification;

prohibiting collection of forest-produce.

(*b*) prohibit, from a date fixed as aforesaid, the quarrying of limestone, laterite or any other stone, or the burning of lime or charcoal, or the collection of any description of forest-produce, in any such forest or in any portion thereof.

Teak to be reserved.

Unless and until the Chief Commissioner by notification under this section declares otherwise, teak shall be deemed to be reserved in all district-forests.

Publication of such notification in neighbourhood.

30. The Deputy Commissioner shall cause a translation into the language of the district, of every notification issued under section 29, to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest to which such notification applies.

Power to make rules regulating disposal of produce of district-forests.

31. The Chief Commissioner may from time to time make rules to regulate the following matters:—

(*a*) the cutting and removal of trees and timber, and the collection and removal of forest-produce from the district-forests;

(*b*) the granting of free permits to the inhabitants of towns and villages in the vicinity of district-forests, and the production and return of such permits by such persons;

(*c*) the granting of trade-permits to persons felling or removing trees or timber or forest-produce from such forests for the purposes of trade, and the production and return of such permits by such persons;

(*d*) fees payable by such persons, for permission to cut such trees, or to collect and remove such timber or forest-produce, and

(*e*) the other payments, if any, to be made by them in respect of such timber and produce, and the places where such payments shall be made.

Penalties for acts in contravention of notification under section 29.

32. Any person who

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 29, or strips off the bark or leaves from, or otherwise interferes with, any such tree, or

(*b*) makes gardens or toungyas in any forest containing trees reserved as aforesaid, or sets fire to such forest, or

(*c*) kindles a fire without taking all such reasonable precautions as are requisite to prevent its spreading to any trees so reserved, or to any timber of such trees in the vicinity, or

(*d*) leaves burning any fire kindled by him in the vicinity of any such trees or timber, or

(*e*) fells any tree or drags any timber in such a manner as to injure any tree reserved as aforesaid, or

(*f*) permits cattle belonging to him or under his charge to injure any such tree, or

(*g*) quarries any stone, or burns any lime or charcoal, or collects or removes any forest-produce when such quarrying, burning or collecting has been prohibited by a notification under section 29,

shall be punished with imprisonment which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Officer, or in accordance with rules made under section 31, or in the exercise of a right recognized by section 6 of the Burma Land-Revenue Act, 1876.

CHAPTER IV.

OF THE DUTY ON TIMBER.

33. On all timber the produce of forests situated within British territory or brought from any forest situated beyond the frontier of British Burma, a duty may be levied in such manner, at such places and at such rates, as the Chief Commissioner, with the previous sanction of the Governor General in Council, from time to time prescribes by notification in the *British Burma Gazette*:

Power to impose duty on timber.

Provided that if such duty is directed to be levied on each log of such timber, it shall not exceed five rupees per log of five feet in girth and upwards, and two rupees eight annas per log of less than five feet in girth:

Limit of such duty when levied on each log.

Provided also that if such duty is directed to be levied *ad valorem*, it shall not exceed ten per cent. of the value.

When levied *ad valorem*.

34. In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, with the like sanction, from time to time fix by like notification the value on which such duty shall be assessed.

Power to fix value for *ad valorem* duty.

CHAPTER V.

OF THE TRANSIT OF TIMBER AND FOREST-PRODUCE.

35. The Chief Commissioner may from time to time make rules to regulate the transit of all timber and other forest-produce.

Power to make rules to regulate transit of forest-produce.

Such rules may (among other matters)

(*a*) prescribe the routes by which only timber and other forest-produce may be imported, exported or moved into, from or within, British Burma;

(*b*) prohibit the import, export, or moving of such timber or other produce without a pass from the Forest Officer, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes and for the payment of fees therefor;

(*d*) provide for the stoppage and examination of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof or on account of any duty, fee or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(*e*) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it;

(*f*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed; and

(*g*) provide for the removal of any obstruction of the channel or banks of any such river, and for recovering from the person causing such obstruction the cost of such removal.

36. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section 35, and no Forest Officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and its officers not liable for damage to forest-produce at depôt.

37. In case of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall assist any forest or police officer demanding his aid in averting such danger and securing such property from damage.

All persons bound to aid in case of accident at depôt.

CHAPTER VI.

OF THE COLLECTION OF FLOATING AND STRANDED TIMBER.

38. All timber and wood found adrift or stranded on any river, or off the sea-coast of any part of the said territories, and all unmarked wood and timber, or wood or timber on which the marks have been obliterated, altered, or defaced, by fire or otherwise, and all timber beached, stranded or sunk in any river, or on the sea-coast as aforesaid, shall be deemed to be the property of Government unless and until any person establish his right and title thereto.

Drift or stranded timber, or timber unmarked, or with marks obliterated, to become property of Government until title thereto proved.

39. When any timber is floating loose and unrafted in any river or in the sea, or having been so floating has become stranded or has sunk, the Forest Officer may grant a license, either to the owner of such timber, or to any other person he thinks fit, to collect the same, upon such terms as to its continuance, production, return or otherwise, as the Chief Commissioner may from time to time direct.

Licenses to collect timber floating loose.

40. Except on any rivers and in any place which the Chief Commissioner may by rule exempt from the operation of this section, any person may without a license collect any timber floating, stranded or sunk as aforesaid, which, there is reason to believe, would, if not so collected, escape beyond the possibility of being recovered in the usual course.

Timber in danger of escaping beyond control may be collected without license.

41. Any person collecting any timber under a license granted under section 39, unless he is the owner or the agent of the owner of such timber, and

Timber collected under sections 39 and 40 how dealt with.

any person collecting any timber under section 40,

shall at once inform the Forest Officer that he has collected such timber, shall retain the same pending the receipt of an order from such officer as to the disposal thereof, and, on the receipt of such order, shall dispose of such timber in accordance therewith.

42. The Forest Officer may collect any timber floating, stranded or sunk as aforesaid.

Forest Officer may collect.

43. Any person who—

Penalty for offences against preceding sections.

(*a*) except as provided in sections 40 and 41, or under and in accordance with the provisions of a license granted under section 39, collects any timber, whether belonging to himself or to any other person, which is floating, stranded or sunk as aforesaid, or,

(*b*) having collected any such timber, is guilty of any act or omission in respect of the same contrary to the provisions of section 41,

shall be punished with imprisonment which may extend to six months, or with fine which may amount to five hundred rupees, or with both.

44. When the Forest Officer has collected any timber under section 42, or when any timber has been delivered to him in compliance with an order issued under section 41, and the person entitled to the possession of such timber is known to him, he shall, subject to the provisions of sections 48 and 74, deliver the same to such person or as he shall direct.

Forest Officer how to deal with timber collected by or made over to him.

When person entitled to possession is known.

When the person entitled to the possession of such timber is not known to the Forest Officer, he shall publish a notice in the *British Burma Gazette* and shall affix a translation of the same into the language of the country at the place where such timber then is, describing such timber, and calling upon any person having a claim to the possession of the same to present to him within three months from the date of such notice a written statement of such claim.

When such person is not known.

45. When any such statement is presented as aforesaid, the Forest Officer may, after making such enquiry as he thinks fit, either reject the claim, or deliver the timber to the claimant.

Proceedings on claim preferred to timber.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any damages or costs against the Government, or against any Forest Officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

On rejection of claim to such timber, claimant may institute suit.

46. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 42 or delivered to a Forest Officer in compliance with an order issued under section 41, and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and its officers not liable for damage to such timber.

47. If the person entitled to the possession of any timber collected or delivered as aforesaid omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 44, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section 45, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 45, in such other person, free from all encumbrances of every description.

Effect of omission to prosecute claim to such timber.

48. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest Officer such fees on account of the collection thereof as the Chief Commissioner may from time time by rule prescribe.

Fees to be paid by claimant before timber is delivered to him.

CHAPTER VII.

GENERAL.

A.—Of Penalties.

49. All forest-produce in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any such offence, shall be liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Forest-produce, tools, &c., when liable to confiscation.

50. When there is reason to believe that any property is liable to confiscation under section 49 for any offence, it may be seized by any Police or Forest Officer.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, apply for the confiscation of the same to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Seizure of property liable to confiscation.

Application for confiscation.

51. If on receiving an application under section 50, and on making such inquiry as he deems fit, such Magistrate has reason to believe that such property is liable to confiscation under this Act, he shall cause a notice of such application to be affixed at the place of seizure and served upon every person known or believed to be interested in such property.

Procedure on such application.

52. Any person so interested may within one month from the date of serving such notice present a petition to such Magistrate claiming to be heard in opposition to the application.

Person interested may oppose confiscation.

53. On the expiry of the said period of one month, if no such petition has been presented, or, if any such petition has been presented, after hearing the petitioner and considering any evidence he may adduce, the Magistrate may pass an order for the confiscation of the property or for its release.

Order for confiscation.

54. The officer who made the seizure under section 50, or any of his official superiors, or any person who has presented a petition under section 52, may within one month from the date of such order appeal therefrom to the Sessions Judge, and the order passed on such appeal shall be final.

Appeal from such order.

55. When an order for the confiscation of any property has been passed under section 53, and the period limited by section 54 for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Sessions Judge confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances of every description.

Property when to vest in Government.

56. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section 50.

Saving of power to release property seized.

57. Any Police or Forest Officer who vexatiously or unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

Punishment for wrongful seizure.

58. Whoever, with intent to cause damage or injury to the public or to any person—

Penalty for counterfeiting or defacing marks on trees and timber and for altering, &c., boundary-marks.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(*b*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest Officer, or

(*c*) alters, moves, destroys or defaces any boundary-mark of a Reserved Forest,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

B.—Of Criminal Procedure.

59. Any Police or Forest Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Power to arrest without warrant.

Every officer making an arrest under this section shall without unnecessary delay take or send the person arrested before the Magistrate having jurisdiction in the case.

60. Every Police and Forest Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to prevent commission of offence.

61. Every such officer knowing of a design to commit any such offence may arrest without orders from a Magistrate and without a warrant the person entertaining such design, if the commission of such offence cannot be otherwise prevented.

Power to arrest person designing to commit offence.

62. The Magistrate of the District and any Magistrate of the first class specially empowered in this behalf by the Chief Commissioner may try, in the summary way prescribed by the eighteenth chapter of the Code of Criminal Procedure, any forest-offence punishable with imprisonment for not more than six months, or with fine not exceeding five hundred rupees.

Power to try offences summarily.

63. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, empower any Forest Officer of such grade as the Chief Commissioner may from time to time direct, to accept from any person charged with any forest-offence other than an offence under section 57 or section 58 a sum of money by way of composition for such offence.

Power to compound offences.

On the payment of such sum of money to such officer, the accused person, if in custody, shall be discharged, any property seized as liable to confiscation in respect of such offence shall be released, and no further proceedings of any description shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

64. When in any proceedings instituted under this Act, or in consequence of anything done under this Act, a question arises as to whether any timber is the property of the Government, such timber shall be presumed to be the property of the Government until the contrary is proved.

Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

65. Cattle trespassing in a Reserved Forest, or doing damage to any trees reserved under section 29, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle Trespass Act, 1871, and may be seized and impounded as such by any Police or Forest Officer.

Cattle Trespass Act, 1871, to apply.

66. The Chief Commissioner may from time to time by rule direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 65 of this Act, such fines as to him may seem fit, but not exceeding the following, that is to say,

Power to alter fines fixed by that Act.

For each elephant	...	... ten rupees.
,, buffalo	...	... two ,,
,, horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer		... one rupee.
,, calf, ass, or pig		.... eight annas.
,, ram, ewe, sheep, lamb, goat or kid	...	... one rupee.

D.—Miscellaneous.

67. Every person who exercises any right in a district-forest, or in a forest reserved under this Act or under any law in force previous to the date on which this Act comes into force, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest,

Persons interested in forest bound to assist Forest and Police-Officers.

and every person who is employed by any such person in such forest,

shall be bound to communicate without unnecessary delay to the nearest Forest or Police Officer any information he may possess respecting the commission of or intention to commit any forest-offence, and shall assist any Police or Forest Officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest,

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest,

(*c*) in preventing the commission in such forest of any forest-offence,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

68. The Chief Commissioner may, subject to any restrictions from time to time imposed by the Governor General in Council, invest a Forest Settlement Officer, or any member of a Forest Court, or any Forest Officer, by name or as holding any office, with any of the following powers to be exercised by him for the purposes of this Act in any part of British Burma, or in any class of cases, that is to say,

Chief Commissioner may confer additional powers.

(*a*) power to enter upon any land and to survey, demarcate and make a map of the same,

(*b*) any power exercised by a Civil Court in the trial of suits or the hearing of appeals,

(*d*) power to delegate the exercise of any power or the performance of any duty to a subordinate officer.

69. The Chief Commissioner may from time to time, by order published in the *British Burma Gazette*, remove or suspend any person from the office of Forest Settlement Officer or member of a Forest Court, and, whenever such office becomes vacant, whether by the removal of the incumbent or otherwise, may by like order appoint another person thereto.

Power to remove officers and fill vacancies.

70. In addition to the other matters for which the Chief Commissioner is empowered by this Act to make rules, he may from time to time make rules—

Additional powers to make rules.

(*a*) to prohibit, absolutely or subject to conditions, within certain local limits, the establishment of sawpits for the sawing up of timber, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking hammers or other implements used for marking timber;

(*b*) to regulate the use of property-marks for timber, and to provide for the registration of such marks and for the levy of fees from persons registering the same;

(*c*) to determine the persons by whom, and the manner in which, rights over district-forests and over forests reserved under this Act or under any law in force previous to the date on which this Act comes into force, may be conferred, and the mode in which rights so conferred shall be exercised;

(*d*) to determine the person by whom, and the time, place and manner at and in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done; and

(*e*) generally to carry out the provisions of this Act.

71. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Power to impose penalties for breach of rules.

72. All rules made by the Chief Commissioner under this Act shall, when sanctioned by the Governor General in Council, be published in the *British Burma Gazette*, and shall thereupon, so far as they are consistent with this Act, have the force of law.

Rules when to have force of law.

73. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered as if it were an arrear within the meaning of the fourth part of the Burma Land and Revenue Act, 1876.

Recovery of money due to Government.

74. When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer until such amount has been paid.

Lien on forest-produce for such money.

If such amount is not paid when due, the Forest Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any) if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Bribing Forest Officers.

75. All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code, sections 161 to 165 (both inclusive).

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year.	Title.
VII of 1865 ...	An Act to give effect to Rules for the management and preservation of Government forests.
VII of 1869 ...	An Act to give validity to certain Rules relating to forests in British Burma.
XIII of 1873 ...	An Act to amend the law relating to timber floated down the rivers of British Burma.

STATEMENT OF OBJECTS AND REASONS.

The Province of Burma is, as compared with other parts of India, in a peculiar position, and the whole of the specifically unalienated forest-land is the property of Government, subject only to certain rights of user, or privileges exercised in some parts by individuals or village-communities. This right was proclaimed at the time of the annexation of the various territories which now form the Province of British Burma, and has never been gainsaid. The history of the previous legislation in regard to the forest-lands is this: In 1865, when the general Government Forest Act was passed, certain rules were made under it for Burma, which did not apply to the whole of the forests there, and it was eventually found that in part they were not covered by the Act itself. It therefore became necessary to pass an Act in 1869 to validate them. Subsequently, Act XIII of 1873 was passed to amend the law relating to timber floated and imported from foreign territory into British Burma, and that Act repealed Act VII of 1869, and partly also Act XXX of 1854. Later on, in 1874, the duty on foreign timber was made *ad valorem*, and finally, in 1875, further rules were made, under the Act of 1865, for the forests which had not been included in the old rules.

However, the whole has been at best but a piecemeal process, and legislation is still required upon five principal points, besides a number of small ones. First, it is necessary to clear up doubts regarding the reservation of trees other than teak. The system of recovering a part of the price of Government timber in the form of a duty also has to be provided for. Forest-duties are necessary to defray the expense of extra police. But perhaps the most important subject for which legal provisions have been found necessary, is the enquiry into, and decision of, claims of persons to the various rights of servitude and user in the Government forests. It is likewise essential to bar the acquisition by prescription of new rights in reserved forests. Finally, the penalties provided by the present law have been found to be insufficient. The Bill provides for all these points; it also repeals and re-enacts, with the necessary amendments, the three Acts relating to forests and timber, which are now in force in British Burma.

T. C. HOPE.

CALCUTTA; *4th December* 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 23, 1876. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th December 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 14 OF 1876.

THE BURMA FOREST BILL, 1877.

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SCHEDULE—ACTS REPEALED.

A Bill to consolidate and amend the law relating to the management and preservation of Government forests in the province of British Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the management and preservation of Government forests in the province of British Burma, to the transit of forest-produce through the said province, and to the duty leviable on timber imported thereinto; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Forest Act, 1877:"

Short title.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma;

Local extent.

And it shall come into force on such date as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the *British Burma Gazette*, direct.

Commencement.

2. On and from such date the Acts mentioned in the schedule hereto annexed, and all rules made under or validated by any of the said Acts, shall, except as provided by section 24, be repealed, but not so as to affect any thing duly done under any such Act or Rules.

Repeal.

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

Interpretation-clause.

"Forest officer" means any person whom the Chief Commissioner may from time to time appoint by name, or as holding an office, to do

"Forest officer."

(1) anything required by this Act to be done by a Forest officer;

(2) anything to be done by a Government officer under this Act, or under any rule made under this Act, and for the doing of which no agency is specially provided by this Act:

"Tree" includes bamboos and brushwood:

"Tree."

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood when cut up, or when fashioned or hollowed out for cart-wheels, mortars, canoes, or other purposes:

"Timber."

"Forest-produce" includes the following when found in, or brought from, a forest, that is to say—

"Forest-produce."

Limestone, laterite and other minerals and surface-soil, trees, timber, grass, reeds, leaves, flowers, fruits, juice, bark, honey, wax, lac, gum, wood-oil, resin and varnish:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"Forest-offence."

"Cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"Cattle."

"River" includes streams, canals, creeks and other channels, natural or artificial.

"River."

CHAPTER II.

OF RESERVED FORESTS.

4. The Chief Commissioner may from time to time constitute any forest a reserved forest in manner hereinafter provided. Reserved forests, unless assigned to villages as provided in section 27, may be called State forests.

Power to reserve forests.

5. Whenever it is proposed to constitute any forest a reserved forest, and the limits of such forest have not been defined by boundary-marks, and are not, in the opinion of the Chief Commissioner, already sufficiently marked by roads, rivers, or other such boundaries, the Chief Commissioner may cause such limits to be demarcated in such manner as he thinks fit.

Demarcation of boundaries.

6. When the Chief Commissioner has ascertained that the limits of such forest are already sufficiently defined or marked as aforesaid, or when such limits have been demarcated under section 5, he may publish a notification in the *British Burma Gazette*—

Notification by Chief Commissioner.

(*a*) declaring that it is proposed to reserve such forest under this Act;

(*b*) specifying the limits of such forest;

(*c*) appointing an officer [illegible] called "the Forest Settlement Officer" to enquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person within such limits, to or over any land [illegible]; and

(*d*) constituting [illegible] persons (hereinafter called "the Forest Court") to hear appeals from the orders of such officer.

7. During the interval between the publication of such notification and the date fixed by the notification under section 18, no right shall be acquired to, over, or in respect of, the forest comprised in such notification, except under a grant or contract in writing made or entered into by or on behalf of the Government or of some person in whom such right was vested when the former notification was issued, and no fresh gardens or toungyas shall be cut in such forest.

Bar of accrual of forest-rights.

8. When a notification has been issued under section 6, the Forest Settlement Officer shall publish in every town and village in the neighbourhood of the forest mentioned therein a proclamation in the language of the country—

Proclamation by Forest Settlement Officer.

(*a*) specifying the limits of such forest,

(*b*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right as aforesaid, to present to such officer within such period a written notice stating the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

9. Any such right in respect of which no such notice is presented within the said period shall be deemed to be extinguished.

Rights not claimed, extinguished.

10. When any such notice is presented as aforesaid, the Forest Settlement Officer shall inquire into the merits of the claim, and may, if he considers it proved and if he thinks fit to do so, in the case of a claim to or over any land, pass an order to that effect and proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870, or, in the case of a claim to rights of way or of pasture, or to forest-produce, proceed in the manner prescribed in sections 11 and 12.

Power to acquire land over which right is claimed.

For the purpose of so acquiring such land—

(*a*) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(*b*) the claimant shall be deemed to be a person interested and attending before him in pursuance of a notice issued under section [illegible] that Act; and

(*c*) the conditions prescribed by the preceding sections of that Act shall be deemed to have been fulfilled.

11. [illegible] of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall enquire into the nature and extent of such rights, and shall pass an order, admitting, rejecting or modifying the claim.

[illegible] into claims.

12. The Forest Settlement Officer, when passing any such order, shall record the name, residence and occupation of the person claiming the right, the designation (if any), position and area of all fields or groups of fields, and the designation and position of all buildings, in respect of which the exercise of such rights is claimed.

Record to be made by Forest Settlement Officer.

No such claim shall be admitted, unless

(*a*) the claimant was, at the time when the limits of the forest were notified under section 6, in the habitual exercise of the right claimed, and

(*b*) unless the exercise of the right is required for the beneficial use of the land or premises, or of the person claiming the same.

Record where he admits claim.

13. If the Forest Settlement Officer admits any such claim with or without modification, he shall also record the extent to which such rights have been admitted by him, specifying the quantity of timber, bamboos, grass and other forest-produce annually required, the number and description of cattle admitted to graze in the forest and the season during which such pasture is required.

Exercise of rights admitted or modified.

14. After making such record, the Forest Settlement Officer shall, to the best of his ability, and having due regard to the maintenance of the Reserved Forest in respect of which the claim is made, make such arrangements as will ensure the continued exercise of the rights so admitted or modified. For this purpose, the Forest Settlement Officer may—

(*a*) so alter the limits of the proposed reserved forest as to exclude forest-land of sufficient extent, and conveniently situated for the purposes of the claimants; or

(*b*) record an order, conferring upon such claimants a right to pasture or to forest-produce, (as the case may be) to the extent so admitted, at such seasons and within such portions of the reserved forest as may from time to time be fixed for that purpose by competent authority; or

(*c*) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient for the purposes of such claimants, and record an order conferring upon them a right to pasture or to forest-produce (as the case may be) to the extent so admitted.

Commutation of rights.

15. In case the Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such arrangements as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Chief Commissioner may from time to time prescribe in this behalf) commute such rights either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as may be agreed upon.

Appeal to Forest Court from order passed under section 10, 11 or 14.

16. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Chief Commissioner in this behalf, may, within three months from the date of the order passed on such petition by the Forest Settlement Officer under section 10, 11 or 14, prefer an appeal from such order to the Forest Court.

Every such appeal shall be made by petition in writing, and shall be chargeable with a Court-fee of eight annas, and shall be presented to and forwarded by the Forest Settlement Officer.

The Forest Court shall fix a day for hearing the appeal, and shall give notice of such day to the parties, and shall hear such appeal in the neighbourhood of the forest. The order passed thereon by such Court, or by the majority of the members of such Court, shall (subject to review by the Chief Commissioner) be final, and the Forest Settlement Officer shall forthwith proceed to carry out the orders of the Court.

Power to appoint pleader on behalf of Government.

17. The Chief Commissioner may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the Forest Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

18. When—

(*a*) the period fixed under section 8 for presenting notices has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer, and

(*b*) (if any such claims have been made) the period limited by section 16 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the Forest Court, and

(*c*) all lands (if any) included in the forest, which the Forest Settlement Officer has, under section 10, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Chief Commissioner may publish a notification in the *British Burma Gazette* declaring the forest, or any portion thereof, to be reserved from a date fixed by such notification, and from the date so fixed, such forest or such portion thereof shall be deemed to be a reserved forest.

Publication of such notification in neighbourhood of forest.

19. The Forest Officer shall, before the date fixed by such notification, cause a translation of such notification into the language of the district to be affixed in some conspicuous place in every town and village in the neighbourhood of the forest.

No right acquired over reserved forest, except as here provided.

20. No right of any description shall be acquired to, over, or in respect of, a reserved forest, except under a grant or contract in writing made by or on behalf of the Government.

Rights not to be alienated.

21. No right, conferred under section 14, clause (*b*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner, and no produce obtained by virtue of such a right shall be sold or bartered except to such extent as a right to sell or barter may have been admitted in the order recorded under section 13.

Power to stop ways and watercourses in such forests.

22. The Forest Officer may from time to time, with the previous sanction of the Deputy Commissioner, stop any public or private way or watercourse in a Reserved Forest, provided that he has already assigned or constructed another way or watercourse (as the case may be) in lieu thereof, and that such other way or watercourse is a reasonably convenient substitute for the way or watercourse so stopped.

Acts prohibited in such forest.

23. Any person who

(*a*) sets fire to a Reserved Forest, or kindles any fire therein in such manner as to endanger the same, or

(*b*) kindles, keeps or carries any fire therein between the first day of February and the first day of June,

(*c*) burns any lime, bricks or charcoal therein,

(*d*) trespasses or grazes his cattle or permits his cattle to trespass therein,

(*e*) causes any damage therein by negligence in felling any trees or cutting or dragging any timber,

(*f*) fells, girdles, lops, taps or burns any trees therein, or strips off the bark or leaves from, or otherwise interferes with, the same,

(*g*) collects any forest-produce therein,

(*h*) cuts any toungya therein,

shall be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both, in addition to such damages for injury done to the forest as the Court may direct to be paid.

Nothing in this section shall be deemed to prohibit any act done by permission in writing of the Forest Officer, or the exercise of any right conferred under section 14, clause (*b*), or created by written grant or contract made by or on behalf of Government.

Maintenance of rule 13, dated 2nd August 1865.

24. The thirteenth of the rules for the better management and preservation of the Government forests in British Burma, dated the second day of August 1865, shall continue to apply to every forest constituted a Reserved Forest under any law in force previous to the date on which this Act comes into force, until the Chief Commissioner, by notification in the *British Burma Gazette*, declares such forest to be a Reserved Forest under the provisions hereinafter contained.

Every offence against such rule shall be deemed to be an offence punishable under rules made under this Act.

Formation and extension of Reserved Forests under Land Acquisition Act.

25. The formation and extension of a Reserved Forest shall be deemed a public purpose within the meaning of the Land Acquisition Act, 1870, section 4.

Power to declare forest no longer reserved.

26. The Chief Commissioner may, by notification in the *British Burma Gazette*, direct that, from a date fixed by such notification, any forest or any portion of any forest reserved under this Act, shall cease to be a Reserved Forest.

From the date so fixed, such forest or portion thereof shall cease to be reserved, but the rights (if any) which have been extinguished in such forest shall not in consequence of such cessation be deemed to revive.

Village Forests.

Demarcation of village-forests.

27. The Chief Commissioner may assign [illegible] Reserved Forest or [illegible] thereof for the [illegible]ted in village or vi[illegible]s shall be the vicinity of such forest. [illegible] Commissioner called village-forests. [illegible] the management of may make rules for [illegible]scribing the conditions such village-for[illegible]ants of the villages for the under which th[illegible]any such forest is assigned, may benefit [illegible] with timber, pasture or other forest-be [illegible], and their duties for the protection and [illegible] improvement of such forest.

All provisions of this Act relating to Reserved Forests shall (so far as they are consistent with rules so made) apply to village-forests.

CHAPTER III.

OF DISTRICT FORESTS.

"District Forest" defined.

28. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, declare the provisions of this chapter applicable to any forest or waste-land which is not included in a Reserved Forest, and which the Government has not granted, sold or leased.

The forests and waste-lands comprised in any such notification shall be called "District Forests."

Power to issue notification—

29. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*—

reserving trees,

(*a*) declare any class of trees in a district-forest, or any trees in any such forest, to be reserved from a day fixed by such notification;

prohibiting collection of forest-produce.

(*b*) prohibit, from a date fixed as aforesaid, the quarrying of limestone, laterite or any other stone, or the burning of lime or charcoal, or the collection of any description of forest-produce, in any such forest or in any portion thereof.

Teak to be reserved.

Unless and until the Chief Commissioner by notification under this section declares otherwise, teak shall be deemed to be reserved in all district-forests.

Publication of such notification in neighbourhood.

30. The Deputy Commissioner shall cause a translation into the language of the district, of every notification issued under section 29, to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest to which such notification applies.

Power to make rules regulating disposal of produce of district-forests.

31. The Chief Commissioner may from time to time make rules to regulate the following matters:—

(*a*) the cutting and removal of trees and timber, and the collection and removal of forest-produce from the district-forests;

(*b*) the granting of free permits to the [illegible]ants of towns and villages [illegible] of district-forests, and t[illegible] return of such permit[illegible];

(*c*) the granting [illegible] felling or r[illegible] forests for the purposes produc[illegible] the production and return of [illegible]mits by such persons;

[illegible] payable by such persons, for permission to cut such trees, or to collect and remove such timber or forest-produce, and

(*e*) the other payments, if any, to be made by them in respect of such timber and produce, and the places where such payments shall be made.

Penalties for acts in contravention of notification under section 29.

32. Any person who

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 29, or strips off the bark or leaves from, or otherwise interferes with, any such tree, or

(*b*) makes gardens or toungyas in any forest containing trees reserved as aforesaid, or sets fire to such forest, or

(*c*) kindles a fire without taking all such reasonable precautions as are requisite to prevent its spreading to any trees so reserved, or to any timber of such trees in the vicinity, or

(*d*) leaves burning any fire kindled by him in the vicinity of any such trees or timber, or

(*e*) fells any tree or drags any timber in such a manner as to injure any tree reserved as aforesaid, or

(*f*) permits cattle belonging to him or under his charge to injure any such tree, or

(*g*) quarries any stone, or burns any lime or charcoal, or collects or removes any forest-produce when such quarrying, burning or collecting has been prohibited by a notification under section 29,

shall be punished with imprisonment which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Officer, or in accordance with rules made under section 31, or in the exercise of a right recognized by section 6 of the Burma Land-Revenue Act, 1876.

CHAPTER IV.

OF THE DUTY ON TIMBER.

Power to impose duty on timber.

33. On all timber the produce of forests situated within British territory or brought from any forest situated beyond the frontier of British Burma, a duty may be levied in such manner, at such places and at such rates, as the Chief Commissioner, with the previous sanction of the Governor General in Council, from time to time prescribes by notification in the *British Burma Gazette:*

Limit of such duty when levied on each log.

Provided that if such duty is directed to be levied on each log of such timber, it shall not exceed five rupees per log of five feet in girth and upwards, and two rupees eight annas per log of less than five feet in girth:

When levied *ad valorem*.

Provided also that if such duty is directed to be levied *ad valorem*, it shall not exceed ten per cent. of the value.

Power to fix value for *ad valorem* duty.

34. In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, with the like sanction, from time to time fix by like notification the value on which such duty shall be assessed.

CHAPTER V.

OF THE TRANSIT OF TIMBER AND FOREST-PRODUCE.

Power to make rules to regulate transit of forest-produce.

35. The Chief Commissioner may from time to time make rules to regulate the transit of all timber and other forest-produce.

Such rules may (among other matters)

(*a*) prescribe the routes by which only timber and other forest-produce may be imported, exported or moved into, from or within, British Burma;

(*b*) prohibit the import, export, or moving of such timber or other produce without a pass from the Forest Officer, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes and for the payment of fees therefor;

(*d*) provide for the stoppage and examination of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof or on account of any duty, fee or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(*e*) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it;

(*f*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed; and

(*g*) provide for the removal of any obstruction of the channel or banks of any such river, and for recovering from the person causing such obstruction the cost of such removal.

Government and its officers not liable for damage to forest-produce at depôt.

36. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section 35, and no Forest Officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

All persons bound to aid in case of accident at depôt.

37. In case of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall assist any forest or police officer demanding his aid in averting such danger and securing such property from damage.

CHAPTER VI.

OF THE COLLECTION OF FLOATING AND STRANDED TIMBER.

Drift or stranded timber, or timber unmarked, or with marks obliterated, to become property of Government until title thereto proved.

38. All timber and wood found adrift or stranded on any river, or off the sea-coast of any part of the said territories, and all unmarked wood and timber, or wood or timber on which the marks have been obliterated, altered, or defaced, by fire or otherwise, and all timber beached, stranded or sunk in any river, or on the sea-coast as aforesaid, shall be deemed to be the property of Government unless and until any person establish his right and title thereto.

Licenses to collect timber floating loose.

39. When any timber is floating loose and unrafted in any river or in the sea, or having been so floating has become stranded or has sunk, the Forest Officer may grant a license, either to the owner of such timber, or to any other person he thinks fit, to collect the same, upon such terms as to its continuance, production, return or otherwise, as the Chief Commissioner may from time to time direct.

Timber in danger of escaping beyond control may be collected without license.

40. Except on any rivers and in any place which the Chief Commissioner may by rule exempt from the operation of this section, any person may without a license collect any timber floating, stranded or sunk as aforesaid, which, there is reason to believe, would, if not so collected, escape beyond the possibility of being recovered in the usual course.

Timber collected under sections 39 and 40 how dealt with.

41. Any person collecting any timber under a license granted under section 39, unless he is the owner or the agent of the owner of such timber, and

any person collecting any timber under section 40,

shall at once inform the Forest Officer that he has collected such timber, shall retain the same pending the receipt of an order from such officer as to the disposal thereof, and, on the receipt of such order, shall dispose of such timber in accordance therewith.

Forest Officer may collect.

42. The Forest Officer may collect any timber floating, stranded or sunk as aforesaid.

Penalty for offences against preceding sections.

43. Any person who—

(*a*) except as provided in sections 40 and 41, or under and in accordance with the provisions of a license granted under section 39, collects any timber, whether belonging to himself or to any other person, which is floating, stranded or sunk as aforesaid, or,

(*b*) having collected any such timber, is guilty of any act or omission in respect of the same contrary to the provisions of section 41,

shall be punished with imprisonment which may extend to six months, or with fine which may amount to five hundred rupees, or with both.

Forest Officer how to deal with timber collected by or made over to him.

44. When the Forest Officer has collected any timber under section 42, or when any timber has been delivered to him in compliance with an order issued under section 41, and the person entitled to the possession of such timber is known to him, he shall, subject to the provisions of sections 48 and 74, deliver the same to such person or as he shall direct.

When person entitled to possession is known.

When the person entitled to the possession of such timber is not known to the Forest Officer, he shall publish a notice in the *British Burma Gazette* and shall affix a translation of the same into the language of the country in the place where such timber then is, describing the timber, and calling upon any person to present to claim to the possession of the same within three months from the date of such notice a written statement of such claim.

When such person is not known.

45. When such statement is presented as aforesaid, the Forest Officer may, after making such enquiry as he thinks fit, either admit the claim, or deliver the timber to the claimant.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any damages or costs against the Government, or against any Forest Officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

Government and its officers not liable for damage to such timber.

46. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 42 or delivered to a Forest Officer in compliance with an order issued under section 41, and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Effect of omission to prosecute claim to such timber.

47. If the person entitled to the possession of any timber collected or delivered as aforesaid omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 44, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section 45, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 45, in such other person, free from all encumbrances of every description.

Fees to be paid by claimant before timber is delivered to him.

48. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest Officer such fees on account of the collection thereof as the Chief Commissioner may from time time by rule prescribe.

CHAPTER VII.

GENERAL.

A.—Of Penalties.

Forest-produce, tools, &c., when liable to confiscation.

49. All forest-produce in respect of which a forest-offence has been committed, and all tools, boats, [illegible] and cattle used in committing any such offence, shall be liable to confiscation.

[illegible] may be in addition to any other punishment prescribed for such offence.

Seizure of property liable to confiscation.

50. When there is reason to believe that any property is liable to confiscation under section 49 for any offence, it may be seized by any Police or Forest Officer.

Application for confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, apply for the confiscation of the same to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

51. If on receiving an application under section 50, and on making such inquiry as he deems fit, such Magistrate has reason to believe that such property is liable to confiscation under this Act, he shall cause a notice of such application to be affixed at the place of seizure and served upon every person known or believed to be interested in such property.

Procedure on such application.

52. Any person so interested may within one month from the date of serving such notice present a petition to such Magistrate claiming to be heard in opposition to the application.

Person interested may oppose confiscation.

53. On the expiry of the said period of one month, if no such petition has been presented, or, if any such petition has been presented, after hearing the petitioner and considering any evidence he may adduce, the Magistrate may pass an order for the confiscation of the property or for its release.

Order for confiscation.

54. The officer who made the seizure under section 50, or any of his official superiors, or any person who has presented a petition under section 52, may within one month from the date of such order appeal therefrom to the Sessions Judge, and the order passed on such appeal shall be final.

Appeal from such order.

55. When an order for the confiscation of any property has been passed under section 53, and the period limited by section 54 for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Sessions Judge confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances of every description.

Property when to vest in Government.

56. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section 50.

Saving of power to release property seized.

57. Any Police or Forest Officer who vexatiously or unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

Punishment for wrongful seizure.

58. Whoever, with intent to cause damage or injury to the public or to any person—

Penalty for counterfeiting or defacing marks on trees and timber and for altering, &c., boundary-marks.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(*b*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest Officer, or

(*c*) alters, moves, destroys or defaces any boundary-mark of a Reserved Forest,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

B.—Of Criminal Procedure.

59. Any Police or Forest Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Power to arrest without warrant.

Every officer making an arrest under this section shall without unnecessary delay take or send the person arrested before the Magistrate having jurisdiction in the case.

60. Every Police and Forest Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to prevent commission of offence.

61. Every such officer knowing of a design to commit any such offence may arrest without orders from a Magistrate and without a warrant the person entertaining such design, if the commission of such offence cannot be otherwise prevented.

Power to arrest person designing to commit offence.

62. The Magistrate of the District and any Magistrate of the first class specially empowered in this behalf by the Chief Commissioner may try, in the summary way prescribed by the eighteenth chapter of the Code of Criminal Procedure, any forest-offence punishable with imprisonment for not more than six months, or with fine not exceeding five hundred rupees.

Power to try offences summarily.

63. The Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, empower any Forest Officer of such grade as the Chief Commissioner may from time to time direct, to accept from any person charged with any forest-offence other than an offence under section 57 or section 58 a sum of money by way of composition for such offence.

Power to compound offences.

On the payment of such sum of money to such officer, the accused person, if in custody, shall be discharged, any property seized as liable to confiscation in respect of such offence shall be released, and no further proceedings of any description shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

64. When in any proceedings instituted under this Act, or in consequence of anything done under this Act, a question arises as to whether any timber is the property of the Government, such timber shall be presumed to be the property of the Government until the contrary is proved.

Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

65. Cattle trespassing in a Reserved Forest, or doing damage to any trees reserved under section 29, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle Trespass Act, 1871, and may be seized and impounded as such by any Police or Forest Officer.

Cattle Trespass Act, 1871, to apply.

66. The Chief Commissioner may from time to time by rule direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 65 of this Act, such fines as to him may seem fit, but not exceeding the following, that is to say,

Power to alter fines fixed by that Act.

For each elephant	...	... ten rupees.
„ buffalo	...	... two „
„ horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer		... one rupee.
„ calf, ass, or pig		... eight annas.
„ ram, ewe, sheep, lamb, goat or kid	...	... one rupee.

D.—Miscellaneous.

67. Every person who exercises any right in a district-forest, or in a forest reserved under this Act or under any law in force previous to the date on which this Act comes into force, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest,

Persons interested in forest bound to assist Forest and Police Officers.

and every person who is employed by any such person in such forest,

shall be bound to communicate without unnecessary delay to the nearest Forest or Police Officer any information he may possess respecting the commission of or intention to commit any forest-offence, and shall assist any Police or Forest Officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest,

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest,

(*c*) in preventing the commission in such forest of any forest-offence,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

68. The Chief Commissioner may, subject to any restrictions from time to time imposed by the Governor General in Council, invest a Forest Settlement Officer, or any member of a Forest Court, or any Forest Officer, by name or as holding any office, with any of the following powers to be exercised by him for the purposes of this Act in any part of British Burma, or in any class of cases, that is to say,

Chief Commissioner may confer additional powers.

(*a*) power to enter upon any land and to survey, demarcate and make a map of the same,

(*b*) any power exercised by a Civil Court in the trial of suits or the hearing of appeals,

(*c*) power to delegate any power conferred under this section to a subordinate officer or the performance of any duty by such subordinate officer.

69. The Chief Commissioner may from time to time, by order published in the *British Burma Gazette*, empower or suspend any person exercising the powers of a Forest Settlement Officer or of a Forest Court, and, whenever such office becomes vacant, whether by the removal of the incumbent or otherwise, may by like order appoint another person thereto.

70. In addition to the other matters for which the Chief Commissioner is empowered by this Act to make rules, he may from time to time make rules—

Additional powers to make rules.

(*a*) to prohibit, absolutely or subject to conditions, within certain local limits, the establishment of sawpits for the sawing up of timber, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking hammers or other implements used for marking timber;

(*b*) to regulate the use of property-marks for timber, and to provide for the registration of such marks and for the levy of fees from persons registering the same;

(*c*) to determine the persons by whom, and the manner in which, rights over district-forests and over forests reserved under this Act or under any law in force previous to the date on which this Act comes into force, may be conferred, and the mode in which rights so conferred shall be exercised;

(*d*) to determine the person by whom, and the time, place and manner at and in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done; and

(*e*) generally to carry out the provisions of this Act.

71. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Power to impose penalties for breach of rules.

72. All rules made by the Chief Commissioner under this Act shall, when sanctioned by the Governor General in Council, be published in the *British Burma Gazette*, and shall thereupon, so far as they are consistent with this Act, have the force of law.

Rules when to have force of law.

73. All money payable to Government under this Act, or under any rule made under this Act, or the price of any forest-produce, or any penalty, fee or charges incurred in respect of such produce, may, if not paid when due, be recovered as if it were an arrear of land-revenue within the meaning of the fourth section of the Burma Land and Revenue Act, 1876.

Recovery of money due to Government.

When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer until such amount has been paid.

Lien on forest-produce for such money.

If such amount is not paid when due, the Forest Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any) if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Bribing Forest Officers.

75. All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code, sections 161 to 165 (both inclusive).

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year.	Title.
VII of 1865 ...	An Act to give effect to Rules for the management and preservation of Government forests.
VII of 1869 ...	An Act to give validity to certain Rules relating to forests in British Burma.
XIII of 1873 ...	An Act to amend the law relating to timber floated down the rivers of British Burma.

STATEMENT OF OBJECTS AND REASONS.

The Province of Burma is, as compared with other parts of India, in a peculiar position, and the whole of the specifically unalienated forest-land is the property of Government, subject only to certain rights of user, or privileges exercised in some parts by individuals or village-communities. This right was proclaimed at the time of the annexation of the various territories which now form the Province of British Burma, and has never been gainsaid. The history of the previous legislation in regard to the forest-lands is this: In 1865, when the general Government Forest Act was passed, certain rules were made under it for Burma, which did not apply to the whole of the forests there, and it was eventually found that in part they were not covered by the Act itself. It therefore became necessary to pass an Act in 1869 to validate them. Subsequently, Act XIII of 1873 was passed to amend the law relating to timber floated and imported from foreign territory into British Burma, and that Act repealed Act VII of 1869, and partly also Act XXX of 1854. Later on, in 1874, the duty on foreign timber was made *ad valorem*, and finally, in 1875, further rules were made, under the Act of 1865, for the forests which had not been included in the old rules.

However, the whole has been at best but a piecemeal process, and legislation is still required upon five principal points, besides a number of small ones. First, it is necessary to clear up doubts regarding the reservation of trees other than teak. The system of recovering a part of the price of Government timber in the form of a duty also has to be provided for. Forest-duties are necessary to defray the expense of extra police. But perhaps the most important subject for which legal provisions have been found necessary, is the enquiry into, and decision of, claims of persons to the various rights of servitude and user in the Government forests. It is likewise essential to bar the acquisition by prescription of new rights in reserved forests. Finally, the penalties provided by the present law have been found to be insufficient. The Bill provides for all these points; it also repeals and re-enacts, with the necessary amendments, the three Acts relating to forests and timber, which are now in force in British Burma.

T. C. HOPE.

CALCUTTA;
4th December 1876.

WHITLEY STOKES,
Secy. to the Govt. of India.

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